

DATE 12/15/92

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

FILED

DEC 11 1992

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
ex rel. THE PRECISION)
COMPANY, WILLIAM L. KOCH,)
and WILLIAM A. PRESLEY,)

Plaintiff,)

vs.)

KOCH INDUSTRIES, INC.; KOCH)
EXPLORATION CO.; KOCH PIPELINE,)
INC.; KOCH GATHERING SYSTEMS,)
INC., MINNESOTA PIPE LINE CO.;)
QUANAH PIPELINE CORP.; QUIVIRA)
GAS CO.; KOCH OIL CO. OF TEXAS,)
INC.; GULF CENTRAL STORAGE &)
TERMINAL CO. OF NEBRASKA;)
SOUTHWEST PIPELINE CO.; CHAPARRAL)
PIPELINE (NGL) CO.; GULF CENTRAL)
PIPELINE CO.; and KOGAS, INC.,)

Defendants.)

Sealed

No. 91-C-763-B ✓

ORDER SUSTAINING MOTION TO DISMISS

Before the Court for decision is the Defendants' Motion to Dismiss the Amended Complaint filed on August 3, 1992, for violations of the False Claims Act by The Precision Company, and new Plaintiffs, William I. Koch and William A. Presley.

This is the second of two lawsuits brought in this court by The Precision Company against the named Defendants. ("Precision I" and "Precision II"). Precision I was filed May 25, 1989, and Precision II was filed twenty-eight months later on September 30, 1991. The Amended Complaint that is the subject of Defendants' Motion to Dismiss was filed August 3, 1992, in Precision II. The lawsuits proceed under the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730.

Precision I was dismissed by this court for want of subject matter jurisdiction. Pending appeal of Precision I, Precision II was filed in an effort to cure deficiencies pointed out by the trial court in its dispositive order in Precision I. The Tenth Circuit Court of Appeals in U.S. ex rel. Precision Co. v. Koch Industries, 971 F.2d 548 (10th Cir. 1992), affirmed the trial court in Precision I on July 27, 1992, concluding that The Precision Company was not an "original source" as required by the False Claims Act so the court was without subject matter jurisdiction.

On August 3, 1992, the subject Amended Complaint in Precision II was filed, without obtaining leave of court, attempting to join William I. Koch and William A. Presley as new parties plaintiff. On August 7, 1992, along with the filing of a petition for rehearing in Precision I, a motion to add additional parties, William I. Koch and William A. Presley, was filed in the Court of Appeals. On August 31, 1992, the Court of Appeals denied the petition for rehearing and the motion to add the new parties plaintiff. The mandate was issued by the Tenth Circuit Court of Appeals in Precision I on September 11, 1992.¹

The Amended Complaint in Precision II naming as Plaintiffs, The Precision Company and new party Plaintiffs, William I. Koch and William A. Presley, was filed one week after the date of the adverse opinion in Precision I. The allegations of Precision I, Precision II, and amended Precision II are essentially a

¹Our inquiry with the Clerk of the Circuit Court indicates no timely application for writ of *certiorari* has been filed.

transparency, including the prayer for relief, but new party Plaintiffs, William I. Koch and William A. Presley, in the Amended Complaint are asserting "original source" standing to give the court subject matter jurisdiction along with The Precision Company.

It is clear from the Court of Appeals' opinion in Precision I that the court is without subject matter jurisdiction over The Precision Company in either Precision I or Precision II, because the Precision Company is not "an original source."

In their motion to dismiss, Defendants urge four grounds for dismissal: (1) the False Claims Act forbids Messrs. Koch and Presley from joining in this action and requires them to file their own lawsuit to try to qualify as realtors; (2) Precision and its two shareholders are forever foreclosed from relitigating the question of whether this court has subject matter jurisdiction over the same *qui tam* cause of action that was raised in the first lawsuit; (3) Precision deliberately flaunted the requirements of Fed.R.Civ.P. 21 by filing an Amended Complaint adding parties without seeking leave of court, and Messrs. Koch and Presley thus have not properly been added as parties to this case; and (4) even ignoring the prior misadventures of the company they control, Messrs. Koch and Presley cannot qualify in their own right as "original sources" permitted to bring a False Claims Act *qui tam*.

The Court sustains Defendants' Motion to Dismiss under grounds (1) and (3) above which will be discussed hereafter. Grounds (2) and (4), as well as other affirmative defenses or jurisdictional assertions will have to await another day.

The Court of Appeals emphasized in its opinion:

"Not only are we governed by the plain language of the statute, we must also be mindful that 'statutes conferring jurisdiction on federal courts are to be strictly construed, and doubts resolved against federal jurisdiction.' F & S Construction Co. v. Jensen, 337 F.2d 160, 161 (10th Cir. 1964)."

In this analysis it is worthwhile to review some of the language of the Court of Appeals in its opinion regarding the Precision Company as "an original source":

"Allegations that Defendants, by deliberate and systematic mismeasurement, stole crude oil and natural gas from Federal and Indian lands were publicly disclosed on three occasions prior to Precision filing this *qui tam* action. First, William Koch, Precision's majority stockholder, raised allegations of crude oil theft in three previous lawsuits. These allegations were embodied as RICO counts in civil suits instituted by William Koch in 1981, 1982, and 1985. See Oxbow Energy, Inc. v. Koch Indus., Inc., 686 F.Supp. 278 (D.Kan. 1988); Koch v. Koch, 1989 WL 87624, No. 88-1320-K (D.Kan. July 19, 1989), *aff'd* 903 F.2d 1333 (10th Cir. 1990); and Koch v. Koch Indus., Inc., 127 F.R.D. 206 (D.Kan. 1989). Substantial identity exists between the RICO allegations and Precision's FCA allegations. Second, allegations of crude oil and natural gas thefts were disclosed during a public hearing of the Senate Select Committee on Indian Affairs. Again, substantial identity exists between the allegations raised before the Senate Committee and Precision's *qui tam* allegations. Finally, the record reveals these same allegations were disclosed in numerous news releases.

* * *

"After carefully evaluating the record to determine whether Precision has shown by competent proof it qualifies as an original source, we conclude it has not. Precision has failed to meet the first jurisdictional

requirement under the 'original source' definition - the record is devoid of proof Precision possesses sufficient direct and independent knowledge of information on which its allegations are based.

"Precision rests its claims on three classes of information: 1) information gathered by William Koch; 2) information gathered by William Presley from January 1988 to June 1988; and 3) information gathered by William Presley after becoming president of Precision in July 1988.

"Notably, Precision is the *qui tam* plaintiff in the present action, not William Koch or William Presley. Precision did not come into existence as a corporate entity until June 1988. Precision has made no showing it has a legitimate claim to information gathered by Mr. Koch or Mr. Presley prior to its formation. Therefore, Precision cannot seriously argue it qualifies as an original source of the first two classes of information upon which its FCA allegations are based.

"With regard to information gathered after Precision was formed - one affidavit, nineteen unverified statements, four interview summaries, and various 'reports' regarding backgauging, tank strapping and gas sales meter runs - we conclude this information is best characterized as a continuation of, or derived from Mr. Presley's and Mr. Koch's individual investigations. Comparing this third class of information to the first two classes, the information procured by Precision is weak, informal and strikingly redundant. Precision's 'independent' information does not convince us it possesses the requisite direct and independent knowledge of the information on which its FCA allegations are based." 971 F.2d at 553-54.

Following an analysis of the Court of Appeals opinion in Precision I, a motion to add William I. Koch and William A. Presley as parties plaintiff was made in the Court of Appeals and was promptly denied by the Court of Appeals.

31 U.S.C. § 3730(b)(5) states:

"When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action."

It having been concluded the Court has no subject matter jurisdiction with The Precision Company as realtor, Messrs. Koch and Presley, over three years into the litigation, are attempting to jump start Precision II as new private realtors and cure the "original source" subject matter jurisdictional deficiency in Precision I. It is doubtful § 3730 contemplates multiple private realtors, but certainly not in the belated context of the Precision Company's ill-fated effort. Any lawsuit commenced by Messrs. Koch or Presley as private realtors under 31 U.S.C. § 3730 should be commenced in a separate proceeding and comply with the conditions of § 3730 relative to subject matter jurisdiction.

The Court is also of the view that in the context of this case, Fed.R.Civ.P. 21 should take precedence over Fed.R.Civ.P. 15(a), where there is an apparent conflict. Plaintiffs, Messrs. Koch and Presley, as new parties, filed their complaint without leave of court on August 3, 1992, three years and three months following the filing of The Precision Company's original complaint in Precision I, approximately one year after filing of the complaint in Precision II, and one week following the Court of Appeals' adverse opinion in Precision I. While there is a split of authority, the majority view appears to be that "the specific provision relating to joinder in [Fed.R.Civ.P.] 21 governs over the

more general text of Rule 15, and that an amendment changing parties requires leave of court even though made at a time when Rule 15 indicates it could be done as of course." Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d § 1688 (1986) at 474-75, and n. 19. Such an amendment is a matter left to the district court's sound discretion. *Id.* at 471-73. Courts "typically will deny a request that comes so late in the litigation that it will delay the case or prejudice any of the parties to the action." *Id.* at 467-469, and n. 8, 9. The Court concludes that any attempt to perform "case CPR" by amended additional party plaintiff(s) should be unavailing when, as herein, the initial private realtor-plaintiff was found DOA by the appellate court. The Court concludes that discretion dictates Messrs. Koch and Presley should not be permitted to belatedly join Precision II for the reasons set out above and for the additional reason such a late joinder is highly prejudicial to the Defendants.

For the reasons aforesaid, Defendants' Motion to Dismiss Additional Parties Plaintiff, William I. Koch and William A. Presley, is hereby SUSTAINED.

DATED this 11th day of December, 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

DATE 12-15-92

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

FILED
DEC 11 1992
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

MICHAEL T. MAJORS,)
)
 Plaintiff,)
)
 v.)
)
 DAN M. REYNOLDS, et al,)
)
 Defendants.)

92-C-352-B

ORDER

Now before this Court is Defendant's Motion To Dismiss (docket #3). The issue framed by the Motion is whether Plaintiff Michael Majors has exhausted available state remedies prior to bringing the instant Petition for Writ of Habeas Corpus.

Petitioner was convicted of First Degree Manslaughter in Tulsa County District Court in 1987, receiving 25-year sentence. He took no direct appeal nor did he file any application for post-conviction relief. *See, Petition For Writ Of Habeas Corpus*. It is thus clear that Petitioner has failed to exhaust available state remedies. The issue so framed is governed, in-part by 28 U.S.C. §2254. In part, 28 U.S.C. §2254 reads:

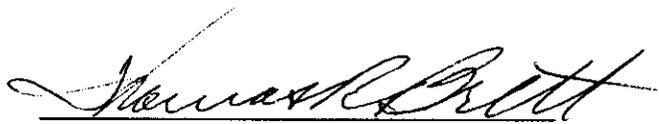
An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State... An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

The Tenth Circuit also has ruled that exhaustion of state remedies is a prerequisite to consideration of a claim for relief under section 2254. *See, Naranjo v. Ricketts*, 696 F.2d

83, 86 (10th Cir. 1982).

In this case, given that no appeal was ever filed, nor has any application for post-conviction relief been sought, Petitioner has not exhausted his state remedies. Further, Petitioner makes no showing that such efforts would be futile. Therefore, the Defendant's Motion To Dismiss is GRANTED. Once Petitioner exhausts his state remedies, he may re-file his habeas petition if he so desires.

SO ORDERED THIS 11 day of Dec, 1992.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

United States District Court
for the Northern District of Oklahoma
December 14, 1992

ENTERED ON DOCKET
DATE DEC 14 1992

Claire V Eagan, Esq.
Hall Estill Hardwick Gable Golden & Nelson
BOK Tower
101 E 2nd St
Suite 4100
Tulsa, OK 74172

C I V I L M I N U T E S

4:92-cv-01029 ✓

PEXCO USA LTD v. Edisto Resources

DOCKET ENTRY

MINUTE ORDER: granting motion to refer case to Bkcy Ct
[5-1]; case referred to USBC for NDO; terminating case
(RML-Clk) (cc: Bkcy) (cc: all counsel)

Richard M. Lawrence, Clerk

THIS NOTICE SENT TO ALL COUNSEL

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET
DATE DEC 14 1992

FREDERICK M. FLORENCE, an
individual,

Plaintiff,

-vs-

ROBERT DAVID FRIEZE, an
individual, and the BANK
OF INOLA,

Defendants.

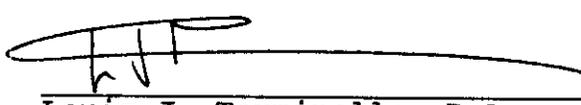
Case No. 92-C-175-E

FILED

DEC 11 1992

STIPULATION OF DISMISSAL Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

The Plaintiff, Frederick M. Florence, and the Defendants, Robert David Frieze and the Bank of Inola, hereby stipulate pursuant to Rule 41 of the Fed.R.Civ.P. that all claims asserted by the Plaintiff against the Defendants, and each of them, are hereby dismissed with prejudice, each party to pay his or its own costs.

 12/10/92

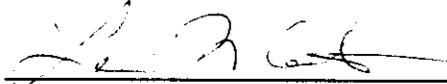
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ENTERED ON DOCKET
DATE DEC 14 1992

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

FILED

DEC 11 1992

GIBCO INDUSTRIES, INC.)
)
) Plaintiff,)
)
) v.)
)
) CHARLES E. GREEN, et al.,)
)
) Defendants.)

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Case No. 91-C-0542-E

ORDER RE: DISCOVERY SANCTIONS

Procedural History

This order addresses the several motions filed by Plaintiff seeking to hold Defendants in contempt of court for failure to abide by this court's orders restricting dissemination of materials produced during discovery in this action. Specifically, Plaintiff files the following motions:

1. Plaintiff's Motion for Contempt Citation¹ (docket #53), filed October 2, 1992; and
2. Plaintiff's Motion for Contempt Citation and Request for Meeting Before the Magistrate (docket #65), filed November 23, 1992.

Each of the foregoing Motions have been referred to the Magistrate Judge for hearing. (See Minute Order, October 16, 1992; and Minute Order, November 23, 1992). Plaintiff's Motion for Contempt Citation (docket #53) was considered at a hearing held October 23, 1992 and by Discovery Order of October 26, 1992 ruling on Plaintiff's Motion

¹ Including Plaintiff's Supplemental Application for Contempt Citation.

for Contempt Citation was deferred upon entry of a further protective order, also governing the same conduct of the parties. Plaintiff's Motion for Contempt Citation was held in abeyance subject to the parties' compliance with the...[October 26, 1992]...protective order..." The October 26, 1992 order specifically holds:

Plaintiff may not advertise or otherwise disseminate information to others "touting" (or in any other way communicating) that its product does not contain phenol (this because recent laboratory tests do, indeed, show a phenol content). Similarly, Defendants may not condemn (or in any other way communicate) to others, whether they be customers or regulatory agencies, that Plaintiff's products do contain phenol. Given that the crux of Defendants' assertion of a defense in this case is that Plaintiff's sale to them is founded upon an "illegal" contract because of failure of Plaintiff to disclose the presence of "phenol" in the admixture, to allow the parties to exacerbate the situation by continued name-calling among potential customers is to invite potential further claims for interference with contractual relations, defamation or even allegations between counsel of ethical violations.

The Order also specifically limited dissemination of test results of the parties' respective products unless both sides could agree:

Once the parties have before them reliable scientific tests to which they can stipulate, the results of the tests may be released; but until that time no information is to be disseminated... (*Emphasis added.*)

The foregoing order was entered in the face of conduct by Defendant which threatened to undermine the orderly conduct of the instant litigation, and specifically the conduct of discovery.² The order was entered on October 26, 1992 and was written in highly specific terms given the fact that this court's earlier Protective Order (docket #19) was seemingly all but ignored by Defendant. The second Protective Order was entered in

² Further, Plaintiff alleges defamation as one of its causes of action, (*See, Complaint, ¶26, "Fourth Cause of Action"*), and the conduct of the Defendant following initiation of suit is precisely that which Plaintiff complains about in its Complaint, namely that Defendant is sending information to Plaintiff's other customers and regulatory agencies claiming that Plaintiff's product is in violation of state and federal regulations.

the form set out above in order to create a plain and specific directive governing the conduct of discovery and handling of discovery materials, which Defense counsel could then show his client.

The nature of the litigation, to the date of the entry of the October 26, 1992 Protective Order was such that Defense counsel could either not control his client; or, was abetting (either actively or passively) his client's activities, a conclusion virtually self-evident by reason of Defendant's continuing conduct, arguably violative of the earlier entered Order (docket #19). Defendant's continuing conduct thus communicated to the court that Defendant intended to avoid judgment by any means possible, including implementation of a strategy of misdirection and accusation designed to create collateral attacks by others (customers and regulators) as a means of applying outside pressure to resolve the litigation. Such conduct, in light of the nature of the action is unfitting and serves only to create burden on the parties and the court, undue expense to the litigants and embarrassment to Plaintiff.

This action is, in reality, a simple case, not worthy of the herculean efforts of defense counsel to sidetrack its outcome. Specifically, this suit essentially began as a collection action,³ whereby Plaintiff sought recovery of payment for product sold to Defendant. Defendant resold the product to retail suppliers and was paid by those suppliers. Defendant did not, however, pay Plaintiff. Defendant now raises as a defense to the action the allegation that the contract of sale between it and Plaintiff was "illegal", hence void, because Plaintiff's product allegedly contains "phenol", a regulated toxic

³ Plaintiff also seeks damages for defamation; Paragraph 26 of Plaintiff's Complaint.

substance. Defendant contends that Plaintiff illegally marketed its product and that it is not required to make payment for product which is violative of federal and state regulations governing use of "Phenol".

The history of the case is, however, far more personal than the papers might indicate. The parties have a long history of dealing with one another, culminating in the formation of a Distributorship Agreement between the two. Tests on Plaintiff's product were run on more than one occasion, and Plaintiff's product was ultimately approved by the I.C.B.O. (International Conference of Building Officials), a private self-regulatory agency for the construction industry.⁴ Notwithstanding this, Defendant continued to contact Plaintiff's customers and regulators decrying Plaintiff's product.

Thus, entry of the Protective Order on October 26, 1992 was but a further attempt by the court to secure compliance from Defendants with the earlier entered order of the court, namely, the Protective Order entered on January 28, 1992. That Order recites in part:

On joint motion of the parties...it is hereby ordered, adjudged, and decreed that:

- 1. Any information disclosed by one party to another in this litigation will be used only for purposes of this litigation, and will not be used for any other purpose, except as provided in this or subsequent orders of the court.**
- 2. Access to any such information shall be permitted only to the parties and their counsel, outside experts who are assisting in this litigation, and court personnel. No one having access to such information shall disclose its**

⁴ Plaintiff's Exhibit #5, entered into evidence upon the hearing held November 24, 1992 is an Evaluation Report, prepared by the ICBO Evaluation Service, Inc. The Findings, as reported in this September 1992 document are as follows:

Gibco's MRF and PRF Liquid Admixtures comply with the 1991 Uniform Building Code when used according to this report, the code and the manufacturer's instructions.

contents in any manner to any other person except those listed in this paragraph. (*Emphasis added.*)

Notwithstanding the foregoing Protective Order and the more specific Order entered on October 26, 1992, the court was yet required to deal with Defense counsel on the issue of disclosure. Counsel continued to "push" the limits of the court's directives, requesting "emergency hearings" and permission to make disclosures to state and federal regulatory agencies. Permission for outright disclosure was denied on multiple occasions, the court instead requiring the parties to engage in joint neutral discussions with agencies, making no mention of the test results part of the discovery materials in this case, or of Defendant's accusations. On more than one occasion, the undersigned determined that conduct contrary to the court's directives, i.e., disclosure of test results, and accusations by Defendants was detrimental to the orderly conduct of discovery and was inappropriate, involving discovery materials and information directly related to the issues raised by Defendant in this action (the issues consequently, yet to be resolved). Defendants' proposed actions -- decrying Plaintiff's product to the marketplace and filing complaints with regulatory agencies was nothing more than a thinly disguised self-proclaimed "public service" -- in reality an attempt to utilize discovery materials and information as a means to apply external pressure on Plaintiff to forego its monetary claim against Defendants. Thus is set the stage for the issues raised by Plaintiff's various Motions for contempt citations.

Governing Law

While styled "citations for contempt" the undersigned finds that Plaintiff's motions are motions properly framed under *Rule 37, Federal Rules of Civil Procedure*, for sanctions

for failure to comply with the court's earlier entered discovery orders. Defendant's objections to the proceedings on the grounds that the Magistrate Judge is without jurisdiction to hear and determine a contempt citation is denied. This issue is more fully discussed below.

Defendant's objections to the hearing on contempt on jurisdictional grounds is also denied. Though Defendants have filed for protection under the United States Bankruptcy laws, this court does not lose jurisdiction for the purpose of enforcing its orders and entering sanctions for violation of the court's orders. *See, Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 10 S.Ct. 2447, 110 L.Ed.2d 359 (1990) ("*It is well established that a federal court may consider collateral issues after an action is no longer pending. For example, district courts may award costs after an action is dismissed for want of jurisdiction.*"⁵) *See also, Reed v. Iowa Marine and Repair Corp.*, 1992 U.S. Dist. LEXIS 12200 (E.D. La. 1992), wherein the court noted: "*Like sanctions under Rule 11, inherent power sanctions can be imposed well after judgment on the merits.*" *Id.* Thus, though Defendants have filed for protection under the Bankruptcy laws, such filing does not deprive the court of jurisdiction to address the issue of sanctions.

Defendant also objects to the hearing before the United States Magistrate Judge. Defendant's objections are denied. First, both motions filed by Plaintiff have been formally referred to the undersigned for hearing. Second, the motions address alleged failure by

⁵ *The Supreme Court further noted:*

Like the imposition of costs, attorney's fees, and contempt sanctions, the imposition of a Rule 11 sanction is not a judgment on the merits of an action. Rather, it requires the determination of a collateral issue: whether the attorney has abused the judicial process, and , if so, what sanctions would be appropriate. Such a determination may be made after the principal suit has been terminated.

Defendant to comply with this court's discovery orders, to wit: protective orders issued by the Magistrate Judge governing the conduct of the parties regarding use and dissemination of discovery materials and information obtained during discovery relating to the issues in the action. As such, the Magistrate Judge may determine whether the orders have been breached, and, if so, may assess non-dispositive sanctions by appropriate order. *See, Ocelot Oil Corporation, et al v. Sparrow Industries, et al*, 847 F.2d 1458, 11 Fed.R.Serv.3d 283 (10th Cir. 1988), wherein the court held:

28 U.S.C. §636(b) establishes that magistrates may hear and determine any pretrial matters pending before the court, save for eight excepted motions. These eight motions are generally referred to as "dispositive" motions. Magistrates may issue orders as to non-dispositive pretrial matters, and district courts review such orders under a "clearly erroneous or contrary to law" standard of review...Discovery is clearly a pretrial matter, and magistrates thus have general authority to order discovery sanctions. They may not do so, however, if the sanctions fall within the eight dispositive motions excepted in subsection (A)...

Ocelot also challenges the imposition of attorney's fees as a sanction. The merits of this issue are properly before us because magistrates have the authority to impose such fees as non-dispositive discovery sanctions under 28 U.S.C. §636...

As regards the standard to be employed by the court in determining the imposition of sanctions, the course to be charted is clear:

The district court's discretion to choose a sanction is limited in that the chosen sanction must be both "just" and "related to the particular claim" which was at issue in the order to provide discovery. *Ehrenhaus v. Reynolds et. al*, 965 F.2d 916 (10th Cir. 1992).

The Facts

A hearing was held on November 23, 1992 for the purpose of taking evidence and hearing argument on the question of whether sanctions should be imposed upon

Defendants for alleged failure to abide by the earlier Protective Orders entered by the court. Plaintiff offered the testimony of Mr. Mark Gibson, President and owner of Plaintiff. Defendants were ordered to appear, but did not appear. Ms. Teresa Butthold appeared for Plaintiff; while Mr. Jef Stites appeared for Defendants.

Mr. Gibson testified to Plaintiff's Exhibit 1, a "fax" transmission from one of Plaintiff's customers, Kaiser Cement Corporation. The transmission included correspondence from Defendants, copies of test results of Plaintiff's product, copies of test results of Defendant's product and an article which appeared in the *Tulsa World* on November 16, 1992 reporting on phenol vapor leaks at the CONOCO refinery. Clearly the seemingly unrelated news article is added for effect: to emphasize that Plaintiff's product is "dangerous" and "toxic" -- all part of the campaign to apply pressure to Plaintiff -- and all prohibited by this court's earlier orders.

The information sent by Defendants to Plaintiff's customer and found in Exhibit "1" communicates that Defendant's product that is "**completely free of phenol in accordance with the Table 24-19-C: Deleterious Materials not permitted in mortar cement."** Plaintiff's Exhibit "1". (Emphasis in original Exhibit.) Defendant's letter goes on to assert: "We now know that Kel-Crete admixture can be marketed as a the only manufactured admixture in the market that is completely exempt from the Code of Federal Regulations (CFR) as set forth in Title 49 revised December 31, 1991, Section 171-81, Definitions as required for toxic material, Section 171-1011, Phenol Listed as hazardous. *Id.* (Emphasis in original Exhibit.) The information does exactly what the court has earlier proscribed -- it contains a product test, part of the discovery materials in this case, disseminated to others without

the consent (stipulation) of the parties; engages in "name calling" and generally violates the spirit and the letter of the court's continued orders and admonitions.

Mr. Gibson testified that he had worked with Mr. Green for more than 10 years, that he had seen Mr. Green's signature "thousands of times" and that the signature appearing at the conclusion of the correspondence to Kaiser Cement was, in fact, Mr. Green's.

Mr. Gibson further testified that he was aware of four dealers of Plaintiff's product (eg., Plaintiff's customers) who had received the same information and materials as are found at Exhibit "1". They are: D&H Construction; Westside Supply; Kaiser Cement and Cal-Wall. He also testified that he had received inquiry from Mr. Dan Seri of ALTA Building Materials, a supplier of Plaintiff's product asking about the allegations of phenol content -- having obtained such information from Defendants.

Mr. Gibson also testified that a further test was performed by independent laboratories on Plaintiff's product, showing that there were no "phenols" in the product -- drawing a scientific distinction between "phenols" and "phenolics". Such information was introduced at the hearing and is documented by Plaintiff's Exhibit "2" (*Correspondence of November 23, 1992, T.I. Laboratories, Inc.*); and Plaintiff's Exhibit "3" (*Report of November 30, 1992, National Testing Standards, Inc.*).

Nevertheless, Defendant circulated to Plaintiff's customers and perhaps others, the information found at Plaintiff's Exhibit "1" and Plaintiff's Exhibit "2", the latter containing additional test results of Defendants' product and materials comparing the two products by means of opposing test results.

Since the hearing the court has been informed by Plaintiff's counsel, by appropriate filing, that officials with the California Department of Transportation have made official inquiry regarding Plaintiff's product, such inquiry, by clear implication, the result of Defendant's recent dissemination of information, as above.

At the hearing, Mr. Stites, Defendants' counsel, again decried Plaintiff's product and argued that his client should be allowed to disseminate information about "toxic" materials to the public, all for the public welfare. He also indicated that his clients were returning to Tulsa, Oklahoma to live on or about December 14, 1992.

Analysis

The issue presented by Plaintiff's respective Motions is not whether Plaintiff's product in fact contains a prohibited toxic material, i.e., "phenol", but whether Defendants have violated the discovery orders of this court prohibiting dissemination of information relating to the parties' products, and otherwise prohibiting the parties from engaging in name-calling and similar tactics designed to exert external pressure to resolve issues otherwise properly before the court for determination.

Thus, the question is not whether Plaintiff's product contains "phenol", but whether Defendants disobeyed the orders of this court. The protective orders issued in this action are designed to require the parties to litigate the issues in this case before the court, and not in the marketplace. More to the point, the court specifically restricted dissemination of test results as the issue of "illegality" is Defendants' primary defense and is otherwise strongly contested by Plaintiff. The determination of illegality as a defense to Plaintiff's claim is not to be resolved by the parties outside the court by dissemination of the evidence

to the public at large. It is the court's task to resolve the issue, and preserve the evidence and protect the process of obtaining evidence in discovery in an orderly fashion. When a party, as here, indicates to the court that it will attempt to embarrass its opponent, create undue burden on its opponent and generally harass its opponent, utilizing information properly part of the litigation between the parties, a protective order is required. Here, just such an order was entered; first, upon agreement of the parties, and then when faced with Defendant's violation of same, yet a second time, in the form of a highly specific order directed to the evidence at issue and the conduct of the parties in dealing with that evidence.

To allow the parties to exchange test results and related information in discovery and then allow them, and particularly Defendants, to bandy such information about the marketplace, bashing Plaintiff's customers over their respective heads with same, is to all but discard the orderly process of dispute resolution represented by the courts in this country. If disputes between parties were to be resolved by unrestricted intimidation of one's opponent in the marketplace, determining the winner by looking to whomever remains economically viable after free-wheeling dissemination of potentially damaging, if not defamatory, otherwise protected discovery material, to opposing parties' customers, a simple yet cogent question is raised: of what use is a court?

Rule 26(c) provides for entry of protective orders "which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden..." Here orders were entered both from the bench and in writing, specifically restricting use and dissemination of test results specifically, and discovery information generally.

Notwithstanding these orders, Defendants and their counsel persisted in seeking to disseminate such information. Upon filing for Bankruptcy protection counsel specifically inquired of the court whether the earlier orders were in effect. Counsel was informed in no uncertain terms that the earlier orders entered by this court governing use and dissemination of discovery materials generally and test results specifically, remained in effect. The simple filing before the Bankruptcy Court did not obviate this court's earlier orders, there being a potential for the instant litigation to continue in the future, depending upon the handling of the claims before the Bankruptcy Court. The automatic stay does not vitiate the orders of the court regarding already obtained discovery and use and dissemination of same.

In apparent complete disregard for the orders of the court, and the specific ruling that the Bankruptcy filing did not operate to lift the earlier protective orders,⁶ Defendants caused Plaintiff's Exhibits "1" and "2" to be sent to Plaintiff's customers; this act coming after November 16, 1992, since that was the date of the *Tulsa World* newspaper article.

Given the foregoing, the undersigned finds as follows:

1. Defendants have violated this Court's orders governing discovery, to wit: the Protective Order of January 28, 1992; the Order of October 26, 1992; and the oral orders from the bench regarding continuing enforcement of the court's protective orders.

2. Defendants' counsel, Mr. Jef Stites did not use his best efforts to effectuate the court's orders and is thus responsible, in-part, for his clients' conduct.

⁶ *If one could avoid the court's protective orders and thereby cause to happen what the court sought to avoid by entry of the orders merely by filing for Bankruptcy protection, the potential for harm would be significant. Such a result would plainly create potential for improper use of the Bankruptcy laws and otherwise undermine the District court's superintending authority over bankruptcy generally.*

3. Non-dispositive sanctions should be imposed to redress the wrong done by Defendants, as follows:⁷

a. Defendants and Mr. Stites are to pay the attorney fees incurred by Plaintiff in preparing and presenting its respective sanctions motions, to include the various emergency hearings had by the court both before and following Defendants' bankruptcy filing;

b. Defendants are to appear in court on December 16, 1992 at 10:30 a.m. and present to the court a complete list of all persons, companies, agencies, customers and all others to whom they disseminated information regarding their product, plaintiff's product and test results and related information in this case. Such list shall be complete and shall include a complete, true and correct copy of all materials sent out by Defendants to others.

c. Defendants and Mr. Stites shall pay for a mailing by Plaintiff (to include the actual cost of mailing together with the cost of reproduction of materials and related attorney fees) to all persons to whom Defendants sent material contrary to the orders of this court, the extent of the list to be determined on December 16, 1992.

d. Plaintiffs shall be entitled to frame a response calculated to neutralize the Defendants' earlier violative dissemination of materials, same to be subject to the court's approval before being sent.

e. Plaintiff shall submit affidavits in support of the award of attorney's fees, setting forth specific tasks performed, amounts incurred and like information. Same shall be submitted on December 16, 1992.

f. Defendants and Mr. Stites shall have the opportunity to file any opposing affidavit or brief on the subject of the amount of

⁷ Had Defendants not sought protection in the Bankruptcy Court, the undersigned would have recommended to the district court imposition of dispositive sanctions, to wit: striking Defendants' defense and entry of judgment in favor of Plaintiff herein; given the blatant disregard by Defendants and their counsel for the court's clear directives. Such a sanction remains a potential remedy for the wrong done should Plaintiff seek to withdraw the reference to the Bankruptcy Court and then seek to transfer the filing to the Northern District of Oklahoma, perhaps even consolidating same with this action.

the award of attorney's fees, the brief to be limited to 10 pages in length, the brief and affidavit to be filed no later than December 30, 1992.

g. The court's earlier entered protective orders shall remain in full force and effect.

h. Dates for payment of attorney's fees and costs of mailing shall be specifically set by further order of the court.

SO ORDERED THIS 17th day of December, 1992.



JEFFREY J. WOLFE
UNITED STATES MAGISTRATE JUDGE

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

CAROLYN THOMAS, et al.

Plaintiffs,

vs.

No. 89-C-1061-E

STATE OF OKLAHOMA ex rel
DEPARTMENT OF HUMAN SERVICES

Defendant.

FILED

DEC 10 1992

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

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 THEREFORE ORDERED that the action be dismissed without prejudice. The Court retains complete jurisdiction to vacate this order and to reopen the action upon cause shown within twenty (20) days that settlement has not been completed and further litigations 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.

ORDERED this 10th day of December



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

ENTERED ON Docket

DEC 14 1992

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

FILED

DEC 9 1992 *mlw*

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

HARRY AND KAY ROBINSON,
et al.,

Plaintiffs,

vs.

AUDI AKTIENGESELLSCHAFT,
et al.,

Defendants.

No. 89-C-604-E ✓

ADMINISTRATIVE CLOSING ORDER

It appears to the Court that no issues remain for resolution in this action. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS THEREFORE ORDERED that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation, order, judgment, or for any other purpose required to obtain a final determination of the litigation. The Court retains complete jurisdiction to vacate this order and to reopen the action upon cause shown within thirty (30) days that settlement has not been completed and further litigation is necessary.

ORDERED this 9th day of December, 1992.

James O. Ellison

JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

27

ENTERED CIVIL CLERK
DATE **DEC 14 1992**

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ARETHA M. HENSON a/k/a ARETHA)
 M. OGANS a/k/a ARETHA MELINDA)
 OGANS; CARNELL OGANS;)
 ASSOCIATES FINANCIAL SERVICES)
 OF OKLAHOMA, INC.; PIONEER)
 FINANCE OF OKLAHOMA INC. n/k/a)
 PIONEER MILITARY LENDING OF)
 OKLAHOMA, INC.; JOHN DOE,)
 TENANT; JANE DOE, TENANT; SOURCE)
 ONE MORTGAGE SERVICES CORPORATION)
 f/k/a FIREMAN'S FUND MORTGAGE)
 CORPORATION f/k/a MANUFACTURERS)
 HANOVER MORTGAGE CORPORATION;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED
DEC 2 1992
Clerk of Court
Northern District of Oklahoma

CIVIL ACTION NO. 92-C-366-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 9th day
of Dec., 1992. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Wyn Dee Baker, Assistant United States
Attorney; the Defendants, County Treasurer, Tulsa County,
Oklahoma, and Board of County Commissioners, Tulsa County,
Oklahoma, appear not, having previously disclaimed any right,
title or interest in the subject property; the Defendant, Pioneer
Finance of Oklahoma, Inc. n/k/a Pioneer Military Lending of
Oklahoma, Inc., appears not, having previously disclaimed any
right, title or interest in the subject property; the Defendants,
John Doe, Tenant, and Jane Doe, Tenant, appear not, and should be

dismissed from this action; and the Defendants, Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda Ogans; Carnell Ogans; Associates Financial Services of Oklahoma, Inc.; and Source One Mortgage Services Corporation f/k/a Fireman's Fund Mortgage Corporation f/k/a Manufacturers Hanover Mortgage Corporation, appear not, but make default.

The Court, being fully advised and having examined the court file, finds that the Defendant, Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda Ogans, was served with Summons and Amended Complaint on August 19, 1992; that Defendant, Carnell Ogans, was served with Summons and Amended Complaint on August 19, 1992; that Defendant, Associates Financial Services of Oklahoma, Inc., was served with Summons and Amended Complaint on August 24, 1992; that Defendant, Pioneer Finance of Oklahoma, Inc. n/k/a Pioneer Military Lending of Oklahoma, Inc., acknowledged receipt of Summons and Complaint on May 22, 1992; that Defendant, Source One Mortgage Services Corporation f/k/a Fireman's Fund Mortgage Corporation f/k/a Manufacturers Hanover Mortgage Corporation, acknowledged receipt of Summons and Amended Complaint on August 19, 1992 and was served with Summons and Amended Complaint on September 23, 1992; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 5, 1992; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 4, 1992.

The Court further finds that Defendants, John Doe, Tenant, and Jane Doe, Tenant, have not been served herein, as such persons do not exist and should therefore be dismissed as Defendants herein.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on May 26, 1992, disclaiming any right, title or interest in the subject property; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on May 26, 1992, disclaiming any right, title or interest in the subject property; that the Defendant, Pioneer Finance of Oklahoma, Inc. n/k/a Pioneer Military Lending of Oklahoma, Inc., filed its Answer and Disclaimer on May 22, 1992, disclaiming any right, title or interest in the subject property; and that the Defendants, Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda Ogans; Carnell Ogans; Associates Financial Services of Oklahoma, Inc.; and Source One Mortgage Services Corporation f/k/a Fireman's Fund Mortgage Corporation f/k/a Manufacturers Hanover Mortgage Corporation, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on May 4, 1990, Carnell Ogans and Aretha Melinda Ogans filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 90-01204-C, were discharged on August 27, 1990, and the case was closed on June 27, 1991.

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

Lot Eleven (11), Block Eight (8), SMITHDALE, an Addition in Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on February 27, 1976, the Defendant, Aretha M. Henson, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, her mortgage note in the amount of \$9,500.00, payable in monthly installments, with interest thereon at the rate of 9 percent (9%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Aretha M. Henson, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated February 27, 1976, covering the above-described property. Said mortgage was recorded on March 1, 1976, in Book 4204, Page 1854, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda Ogans, 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, Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda Ogans, is indebted to the Plaintiff in the principal sum of \$7,852.80, plus interest at the rate of 9 percent per annum from January 1, 1990 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$66.84 for service of Summons and Amended Complaint.

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

The Court further finds that the Defendant, Pioneer Finance of Oklahoma, Inc. n/k/a Pioneer Military Lending of Oklahoma, Inc., disclaims any right, title or interest in the subject real property.

The Court further finds that the Defendants, Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda Ogans; Carnell Ogans; Associates Financial Services of Oklahoma, Inc.; and Source One Mortgage Services Corporation f/k/a Fireman's Fund Mortgage Corporation f/k/a Manufacturers Hanover Mortgage Corporation, 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 the Defendant, Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda

Ogans, in the principal sum of \$7,852.80, plus interest at the rate of 9 percent per annum from January 1, 1990 until judgment, plus interest thereafter at the current legal rate of 3.76 percent per annum until paid, plus the costs of this action in the amount of \$66.84 for service of Summons and Amended Complaint, 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; Aretha M. Henson a/k/a Aretha M. Ogans a/k/a Aretha Melinda Ogans; Carnell Ogans; Associates Financial Services of Oklahoma, Inc.; and Source One Mortgage Services Corporation f/k/a Fireman's Fund Mortgage Corporation f/k/a Manufacturers Hanover Mortgage Corporation have no right, title, or interest in the subject real property, and the Defendants, John Doe, Tenant, and Jane Doe, Tenant, are hereby dismissed as Defendants herein.

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, according to Plaintiff's election with or without 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 judgment rendered herein in favor of the Plaintiff;

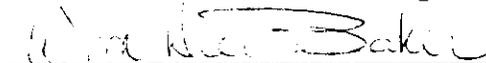
The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

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



WYN DEE BAKER, OBA #465
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 92-C-366-B

WDB/esr

ENTERED ON DOCKET

DATE DEC 11 1992

FILED

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

DEC 10 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

PARAGON CAPITAL CORPORATION,)
)
 Plaintiff,)
)
 vs.)
)
 LINDELL M. WHITEFIELD and)
 DELIA ALICIA WHITEFIELD,)
)
 Defendants.)

Case No. 92-C-957 C

AGREED ORDER OF DISMISSAL WITH PREJUDICE

Upon motion by Paragon Capital Corporation the appeal of the order of the United States Bankruptcy Court in Cause No. 92 C-957 C In re Whitefield, dated September 18, 1992, is hereby dismissed with prejudice to its refiling. Costs are taxed against the party incurring same.

IT IS SO ORDERED.

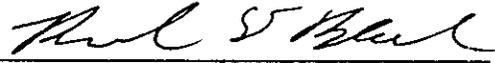
DATED this 9th day of December, 1992.

(Signed) H. Dale Cook

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

APPROVED AS TO FORM:

SNEED, LANG, ADAMS & BARNETT

By 

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MCKENZIE, MOFFETT & SYKORA

By 

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Attorneys for Thomas W. Shank

DATE DEC 11 1992

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

FILED

DEC -9 1992

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

No. 92-C-269-B

JOSEPH ANGELO DICESARE,
CORPORATION,

Plaintiff,

vs.

LARRY D. STUART, et al.,

Defendants.

J U D G M E N T

In accord with the Order filed December 8, 1992, sustaining the Defendant's Motion for Summary Judgment, the Court hereby enters judgment in favor of all Defendants and against the Plaintiff, Joseph Angelo Dicesare. Plaintiff shall take nothing on his claim. Costs are assessed against the Plaintiff, if timely applied for under Local Rule 6. Each side is to pay its respective attorney fees.

Dated, this 9th day of December, 1992.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

ENTERED ON DOCKET

DATE DEC 14 1992

M. LOUISE KENEY,
)
)
 Plaintiff,
)
)
 v.)
)
 PAUL McBRIDE,
)
)
 Defendant,
)
)
 and)
)
 DOUBLE EAGLE MINING COMPANY, INC.,)
)
 an Oklahoma corporation,)
)
 Third Party Defendant.)

No. 88-C-239E

FILED

DEC 8 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER AND SUPPLEMENTAL JUDGMENT

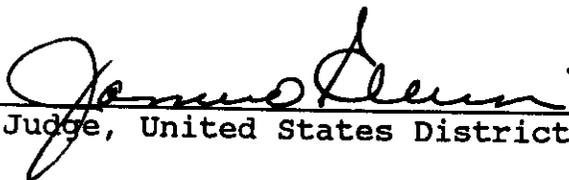
Now on this 8th Day of Dec, 1992, upon application of Plaintiff, there being no opposition by any party within the time provided by rule, it is by the Court

ORDERED, that the Judgment of May 21, 1991, be and the same hereby is, supplemented, by adding thereto the sum of \$86,538.50 to the judgment, bringing the total thereof to FIVE HUNDRED EIGHT THOUSAND EIGHTY-ONE AND 24/100THS DOLLARS (\$508,081.24), with interest thereon from December 31, 1990 at the judgment rate of 11.71 %; and it is further

ORDERED, that the trust be, and the same hereby is, terminated, liquidated, wound up and concluded, all as pursuant to this Court's prior orders, rulings, and judgments, including the Order of October 7, 1992; and it is further

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ORDERED, that the remainder of this action, being Plaintiff's claim for punitive damages against Defendants, be and the same hereby is, DISMISSED, without prejudice, subject to the Court's retained jurisdiction to enforce its orders with respect to Mr. McBride.



Chief Judge, United States District Court

DATE FILED 11 1992

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

FILED
JUN 6 1992
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

TED PERRY,)
)
 Plaintiff,)
)
 vs.)
)
 MCDONNELL DOUGLAS CORPORATION,)
 a Maryland corporation; and)
 BENNETT C. COLE, individually,)
)
 Defendants.)

No. 91-C-802-B

O R D E R

Before the Court for decision is the Motion for Summary Judgment Pursuant to Fed.R.Civ.P. 56, regarding Plaintiff's alleged Age Discrimination in Employment (ADEA) claim and Plaintiff's alleged Employment Retirement Income Security Act (ERISA) claim that his employment was terminated to deprive him of benefits to which he was entitled. After review of the record, arguments of counsel, and applicable legal authority, the Court concludes the motion for summary judgment should be OVERRULED regarding the ADEA claim, but sustained regarding the ERISA claim.

The undisputed material facts reveal that Plaintiff, age 61 years, had been employed by Defendant, McDonnell Douglas Corporation ("MDC"), for approximately twenty-five years and was considered a reasonably competent and satisfactory employee. On two occasions during Plaintiff's earlier employment with MDC he experienced terminations due to layoffs, and then was re-employed.

The Plaintiff worked in the computer department of MDC from 1969 until his layoff on August 13, 1990. From 1988 through 1990,

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Plaintiff held the position of Data Services Specialist. From 1988 through 1990, Plaintiff received positive evaluation and two merit increases in pay, a 3.4% raise in December 1988, and a 6.7% raise in March 1990. On March 4, 1990, Plaintiff's primary duties were changed. His new duty assignments were more administrative in nature within the computer operations department, but he maintained the same job classification and the same compensation. Plaintiff's old job function was given to a thirty-two year old man, Dennis Van Dyke. There is no dispute concerning Van Dyke's competence to perform as a system programmer specialist, but there is some dispute as to whether he was qualified to perform the previous duties carried out by Plaintiff, including CA-7 production scheduling.

The Plaintiff received an Associate's degree in Applied Science, Computer Programming from Tulsa Junior College in 1986; a Bachelor's degree in Computer Science at Oklahoma City University in 1988; and a Master's Degree in Industrial Technology at Northeastern State University in 1990, as well as numerous MDC-sponsored computer courses, including the one regarding the CA-7 scheduling system.

Disputed facts also remain concerning whether previous to March 1990, Plaintiff had requested a change of job assignment and also whether Plaintiff lacked the necessary experience in the technical aspects of system programming. There is also a dispute concerning the substantive nature of the new duty assignments of Plaintiff in March 1990. Plaintiff states, in retrospect, they were jobs created especially for him preparatory to his termination

in August 1990.

In July 1990, Plaintiff's supervisor was advised by his supervisor that he had to select three persons for layoff out of the group of employees which included Plaintiff. These layoffs were part of a MDC corporate wide cost-cutting program announced in June 1990, designed to reduce expenses by \$700 million. The Plaintiff does not dispute the merits of the layoff, but asserts it was done in a discriminatory manner relative to his age.

Plaintiff's supervisor states for the August 1990 layoff, he selected those persons whom he could most easily do without, while still performing the most important duties assigned to his group. Plaintiff's supervisor states that Plaintiff was one of the three lowest rated employees in his group, as rated during the last performance evaluations made on all employees in the group. Plaintiff asserts there is no documentation that indicates he was one of the lowest rated employees. Plaintiff asserts the documents are to the contrary. Plaintiff's supervisor, Bennett E. Cole, states that Plaintiff was selected for layoff because of his poor work performance, as compared to his co-workers, and that Plaintiff's age or pension eligibility and accrual played no part in Plaintiff's selection for layoff. Cole also states that Plaintiff's layoff was not influenced by the change of duties of Plaintiff in March 1990. Supervisor Cole maintains that Plaintiff would have been laid off in August 1990, even if Plaintiff's duties had not been changed.

Defendants' undisputed Fact No. 30 states:

"Plaintiff has no direct evidence that he was laid off in order to prevent him from receiving a pension, or to prevent further accrual on his behalf of pension funds. Plaintiff simply 'believes' that he was laid off to prevent further accrual of pension funds."

Plaintiff's response there is:

"This is a circumstantial, indirect evidence age discrimination case. This is not a direct evidence case."

At the time of his layoff Plaintiff was fully vested in his pension. Plaintiff's layoff caused no forfeiture or reduction in the pension benefits earned by Plaintiff to the date of August 13, 1990.

Plaintiff asserts that Defendant Cole is liable for the alleged unlawful acts of MDC because he made the decision, while acting within the course and scope of his managerial responsibilities at MDC, to lay off Plaintiff.

The Standard of Fed.R.Civ.P. 56
Motion for Summary Judgment

Summary judgment pursuant to Fed.R.Civ.P. 56 is appropriate where "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986); Windon Third Oil & Gas v. FDIC, 805 F.2d 342 (10th Cir. 1986). In Celotex, 477 U.S. at 317 (1986), it is stated:

"The plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to es-

establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial."

To survive a motion for summary judgment, nonmovant "must establish that there is a genuine issue of material facts..." Nonmovant "must do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita v. Zenith, 475 U.S. 574, 585 (1986). The evidence and inferences therefrom must be viewed in a light most favorable to the nonmoving party. Conaway v. Smith, 853 F.2d 789, 792 n. 4 (10th Cir. 1988). Unless the Defendants can demonstrate their entitlement beyond a reasonable doubt, summary judgment must be denied. Norton v. Liddel, 620 F.2d 1375, 1381 (10th Cir. 1980).

A recent Tenth Circuit Court of Appeals decision in Committee for the First Amendment v. Campbell, 962 F.2d 1517 (10th Cir. 1992), concerning summary judgment states:

"Summary judgment is appropriate if 'there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law.' . . . Factual disputes about immaterial matters are irrelevant to a summary judgment determination. . . We view the evidence in a light most favorable to the nonmovant; however, it is not enough that the nonmovant's evidence be 'merely colorable' or anything short of 'significantly probative.' . . .

"A movant is not required to provide evidence negating an opponent's claim. . . . Rather, the burden is on the nonmovant, who 'must present affirmative evidence in order to defeat a properly supported motion for summary judgment.' . . . After the nonmovant has had a full opportunity to conduct discovery, this burden falls on the nonmovant even though the evidence probably is in possession of the

movant. (citations omitted). *Id.* at 1521."

In an ADEA case, the Plaintiff must establish that age was a "determining factor" in the employer's challenged decision. Lucas v. Dover Corp., Norris Div., 857 F.2d 1397 (10th Cir. 1988); Branson v. Price River Coal Co., 627 F.Supp. 1324, 1328 (D.C. Utah 1986), *aff'd*, 853 F.2d 768 (10th Cir. 1988); and Cockrell v. Boise Cascade Corp., 781 F.2d 173, 177 (10th Cir. 1986).

The Plaintiff may also rely on the three-part allocation of the burden of presenting evidence, as established in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). Under the McDonnell Douglas test, in order to set forth a *prima facie* case, Plaintiff must, by a preponderance of the evidence, establish the following:

1. That he is within the protected age group (40 or older);
2. That his performance was sufficient to meet his employer's legitimate expectations;
3. That he was discharged despite the adequacy of his performance; and
4. That his position was filled by a person younger than the Plaintiff.

Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 253, 101 S.Ct. 1089, 1093-94, 67 L.Ed.2d 207 (1981); Krause v. Dresser Industries, Inc., 910 F.2d 674, 677 (10th Cir. 1990). In a reduction-in-force case, as is present herein, the Tenth Circuit Court of Appeals has altered the fourth element of the test as follows:

"In reduction-in-force cases. . . courts have modified the fourth *prima facie* element by

requiring the plaintiff to 'produc[e] evidence, circumstantial or direct, from which a fact-finder might reasonably conclude that the employer intended to discriminate in reaching the decision at issue."

Lucas v. Dover Corp., Norris Div., *supra*, 857 F.2d at 1397 (quoting Branson v. Price River Coal Co., *supra*, 853 F.2d at 771).

If Plaintiff satisfies the modified McDonnell Douglas test, then the burden of production shifts to the employer. The employer is to then articulate a plausible, nondiscriminatory reason for plaintiff's dismissal or layoff. If a sufficient explanation for the discharge or layoff is given, the Plaintiff must then "rebut" the employer's showing by demonstrating the proffered justification is a pretext. E.E.O.C. v. Sperry Corp., 852 F.2d 503, 507 (10th Cir. 1988). It is the Plaintiff's burden throughout to establish that age was the determining factor in the sense that "but for" his employer's discrimination against him because of his age, he would not have been discharged. Lucas, *supra*, 857 at 1401; Cockrell, *supra*, 781 F.2d at 177.

The Court concludes from a review of the record herein that there are material factual disputes concerning whether or not Defendants' articulated reasons are pretextual, although it is apparent this is a circumstantial evidence case.

The Court will next consider Plaintiff's Employment Retirement Income Security Act ("ERISA") claim under § 510 of the Act, 29 U.S.C. § 1140. The Plaintiff claims that he was terminated to prevent his attainment of employee pension benefits.

Section 510 requires proof that the defendant employer

specifically intended to violate ERISA as a motivating factor behind the employment termination. Simmons v. Willcox, 911 F.2d 1077, 1081-82 (5th Cir. 1980); Gavalik v. Continental Can Co., 812 F.2d 834 (3rd Cir. 1987), *cert. denied*, 484 U.S. 979 (1987). An ERISA claim does not lie where the loss of benefits was simply a consequence of an employment dismissal. Gavalik, supra, 812 F.2d at 851; Corum v. Farm Credit Services, 628 F.Supp. 707, 718 (D. Minn. 1986); Baker v. Kaiser Aluminum & Chemical Corp., 608 F.Supp. 1315, 1319 (N.D. Cal. 1984).

In Plaintiff's deposition at page 150, he admits that he has no evidence that it was MDC's intention to deny him ERISA benefits and that was the reason for his termination. Plaintiff simply says that is his "belief." Thus, the record is inadequate because Plaintiff has failed to present evidence of his employer's specific intent to discharge him to prevent vesting or continued accrual of benefits under ERISA. Dister v. Continental Group, Inc., 859 F.2d 1108 (2nd Cir. 1988); Hendricks v. Edgewater Steel Co., 898 F.2d 385 (3rd Cir. 1990).

Again, attention is called to Plaintiff's Brief in Response to Defendants' Motion for Summary Judgment wherein he states concerning his ERISA claim for loss of pension benefits:

"This is a circumstantial, indirect evidence age discrimination case. This is not a direct evidence case."

The uncontroverted facts do establish that Plaintiff was fully vested in his pension plan and his layoff in August 1990 caused no forfeiture or reduction of pension benefits earned to the date of

his termination. Thus, the Court concludes the uncontroverted material facts from the record demonstrate Plaintiff has not established a *prima facie* case of a § 510 violation so Defendants' Motion for Summary Judgment is hereby SUSTAINED. Defendants' Motion for Summary Judgment regarding Plaintiff's ADEA claim is OVERRULED.

The parties are ordered to adhere to the following schedule:

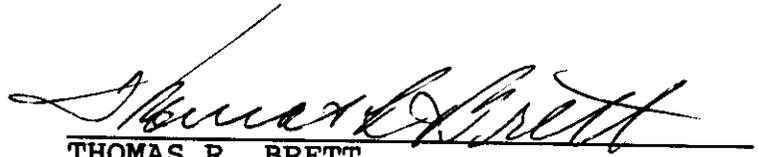
(By January 12, 1993)

FILE REQUESTED VOIR DIRE,
REQUESTED INSTRUCTIONS AND ANY
TRIAL BRIEFS

(January 19, 1993)

JURY TRIAL AT 9:30 A.M.

IT IS SO ORDERED this 9th day of December, 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED ON DOCKET
DATE DEC 10 1992

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

FILED
DEC 9 1992
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

PEGGY J. NEECE, et al.,)
)
 Plaintiffs,)
)
 vs.) No. 88-C-1320-E /
)
 INTERNAL REVENUE SERVICE,)
 et al.,)
)
 Defendants.)

ORDER

On the eve of the pre-trial conference certain issues pend and Plaintiffs ask for an extension of time to respond to Defendants' motions relative to damages. Accordingly, the Court now:

1. Strikes the pre-trial conference currently set for the 10th day of December, 1992 and reschedules the same for the 18th day of December, 1992 at 9:30 A.M.. No additional pleadings may be filed herein without prior written authorization of the Court;
2. Grants Plaintiffs' motion for an extension of time (docket #216) to respond to Defendants' Motions for Partial Summary Judgment on punitive (docket #213) and actual (docket #214) damages, respectively. Plaintiffs' response will be due on the 17th day of December, 1992 by 4:00 p.m.;
3. Addresses the motions at issue in the following particulars:
 - a. The objection of the IRS filed at docket #168 was

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- rendered MOOT by the Court's Order at docket #191;
- b. At docket #170 Defendant First National Bank of Turley requests a determination as to whether liability is separate or joint. The Court finds that McKinnon v. City of Berwyn, 750 F.2d 1383 (7th Cir. 1984) states the proper rule that while punitive damages are always separately assessed, "the obligation to pay compensatory damages to rectify an inseparable injury for which several defendants are liable [as in the instant case] is joint and several." Id. at 1387. It is therefore ordered that punitive damages will be assessed individually and the liability for actual damages is joint and several; the Bank's motion is accordingly GRANTED IN PART; DENIED IN PART;
- c. The objection of the IRS found at docket #173 was rendered MOOT by the Court's Order at docket #191;
- d. The Plaintiffs' Motion for Sanctions, Attorney Fees and Partial Summary Judgment at docket #174 is DENIED;
- e. The Plaintiffs' Motion to Strike at docket #179 is MOOT because it relates to docket #176 which addresses issues resolved by the Court's Order at docket #191;
- f. Plaintiffs' Motion to Compel at docket #182 is denied as MOOT;
- g. The motion of the IRS for a Protective Order

(docket #189) preventing Plaintiffs from taking the depositions of certain government employees is GRANTED on grounds of relevancy;

i. Plaintiffs' Request for Admissions found at docket #193 is rendered MOOT by the Defendant's response at docket #212;

j. Plaintiffs' Renewed Motion to Compel, Motion to Rule and Motion to Set Time (docket #194) is GRANTED IN PART; DENIED IN PART. Similarly, the Motion of the IRS for Reconsideration of the Court's Order (docket #200) is GRANTED in part; denied in part. The issues raised in the motions will be resolved as follows:

(1) All documents ordered produced by the IRS which remain to be produced shall be delivered to Plaintiffs on or before the 17th day of December, 1992;

(2) Provided, however, that any documents as to which the IRS claims privilege shall be submitted on said date to the Court for in camera review, in lieu of delivery to Plaintiffs;

(3) This Order to Produce covers all documents identified in Plaintiffs' August 3rd Notice which the Court ordered produced including the Plan and File identified in Plaintiffs' Request #24; and the Regulation 301.7601.1

File. The Court understands that the Chief Counsel's Opinion Letter has been located and produced.

- (4) The objection of the IRS to Plaintiffs' Request #7 in its August 18th Notice is granted. The discoverable documents are limited to the Action on Decisions file as requested and the Court's Order at docket #191 is hereby AMENDED to reflect this ruling;
- k. Plaintiffs' Motion in Limine filed at docket #202 is denied except as to documents claimed privileged or protected by deliberative process by the IRS. Further, the IRS will be permitted to make legal arguments drawn from documents produced during discovery or readily accessible to the public;
- l. IRS' Motion to Quash (docket #204) is DENIED;
- m. Plaintiffs' motion filed at docket #207 is GRANTED in part; denied in part: Plaintiffs' Motion to Compel is GRANTED; their motions for sanctions and fees are DENIED;
- n. Defendants' motions at docket #s 213 and 214 are not at issue. The Court will address the same after Plaintiffs have filed their responses;
- o. Plaintiffs' motion at docket #216 is GRANTED as aforesaid;
- p. Any motions for sanctions, fees and costs which

relate to the conduct of the parties herein may be
reurged at the close of trial.

ORDERED this 9th day of December, 1992.



JAMES G. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

FILED

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

DEC 8 1992

LINEAR FILMS, INC.,)
an Oklahoma corporation,)
)
Plaintiff,)

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

v.)

Case No. 91-C-943-E

MIDWEST FORAGE PRODUCTS, INC.,)
an Ohio corporation, and)
THEODORE GERBER, an individual,)
)
Defendants.)

FILED ON DOCKET
DATE DEC 9 1992

ORDER GRANTING JOINT APPLICATION FOR ADMINISTRATIVE CLOSURE

Now, on this 8th day of December, 1992, the parties' Joint Application for Administrative Closure ("Joint Application"), filed herein on December 4, 1992, pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, and Rules 15 (C), (E), 17, and 19 of the Rules of the United States District Court for the Northern District of Oklahoma, comes on before the Court. The Court, noting the joint nature of the parties' application, being fully advised of the premises, and for good cause shown, finds that the parties' Joint Application should be and is hereby sustained.

IT IS THEREFORE ORDERED, that the above-captioned cause is administratively closed for a period of sixty (60) days from the date of this Order, without prejudice to the rights of the parties to reopen same for final adjudication on the merits upon proper application at the conclusion of such closure.

IT IS FURTHER ORDERED, that should this cause be reopened at the conclusion of this administrative closure, all remaining dates

56

12042860.02

under the terms of the current Scheduling Order herein, as amended, shall be extended by a period of sixty (60) days from the date upon which the case is reopened.


UNITED STATES DISTRICT COURT JUDGE

SUBMITTED AND APPROVED BY:

Ronald E. Goins, OBA # 3430
Richard J. Cipolla, Jr., OBA # 13674
HOLLIMAN, LANGHOLZ, RUNNELS & DORWART
A Professional Corporation
Suite 700, Holarud Building
Ten East Third Street
Tulsa, Oklahoma 74103
(918) 584-1471

Attorneys for Linear Films, Inc.

Craig W. Hoster, OBA # 4384
J. Gregory Magness, OBA # 14773
BAKER & HOSTER
800 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-5555

Attorneys for Midwest Forage
Products, Inc.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 7 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROGER GREG KING; COUNTY TREASURER,
Ottawa County, Oklahoma; and BOARD
OF COUNTY COMMISSIONERS, Ottawa
County, Oklahoma,

Defendants.

CIVIL ACTION NO. 92-C-521-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 7th day
of December, 1992. 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, Ottawa County,
Oklahoma, and Board of County Commissioners, Ottawa County,
Oklahoma, appear by Wesley Combs, Assistant District Attorney,
Ottawa County, Oklahoma; and the Defendant, Roger Greg King,
appears not, but makes default.

The Court being fully advised and having examined the
court file finds that the Defendant, Roger Greg King, was served
with Summons and Complaint on August 4, 1992.

It appears that the Defendants, County Treasurer,
Ottawa County, Oklahoma, and Board of County Commissioners,
Ottawa County, Oklahoma, filed their Answer on June 19, 1992;
that the Defendant, Roger Greg King, has failed to answer and his
default has therefore been entered by the Clerk of this Court.

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

The Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$); and the Northwest Quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$); and the Southeast Quarter (SE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), all in Section Twenty-one (21), Township Twenty-nine (29) North, Range Twenty-four (24) East of the Indian Meridian, Ottawa County, Oklahoma.

The Court further finds that this is a suit brought for the further purpose of foreclosure of security agreements on personal property located within the Northern District of Oklahoma.

The Court further finds that Roger Greg King or Roger Greg King and Susie M. King executed and delivered to the United States of America, acting through Farmers Home Administration, the following promissory notes:

| <u>Loan Number</u> | <u>Original Amount</u> | <u>Date</u> | <u>Interest Rate</u> |
|---|------------------------|-------------|----------------------|
| 41-18 | \$63,500.00 | 01/10/80 | 3.00% |
| Loan 41-18 was reamortized as shown on the following notes: | | | |
| 41-18 | 66,739.69 | 12/24/84 | 3.00% |
| 41-18 | 66,734.65 | 12/24/84 | 3.00% |
| 41-18 | 71,026.48 | 04/07/86 | 3.00% |
| 41-18 | 76,663.09 | 03/21/88 | 3.00% |
| 41-18 | 78,465.20 | 07/14/89 | 3.00% |
| 44-17 | \$13,970.00 | 02/11/80 | 5.00% |
| Loan 44-17 was rescheduled as shown on the following notes: | | | |
| 44-17 | 9,638.59 | 12/24/84 | 5.00% |
| 44-17 | 10,010.32 | 04/07/86 | 5.00% |
| 44-17 | 10,988.04 | 03/21/88 | 5.00% |
| 44-17 | 11,418.53 | 07/14/89 | 5.00% |

| | | | |
|---|-------------|----------|-------|
| 43-15 | \$ 2,790.00 | 05/28/81 | 5.00% |
| Loan 43-15 was rescheduled as shown on the following notes: | | | |
| 43-15 | \$ 2,749.32 | 12/24/84 | 5.00% |
| 43-15 | \$ 2,925.30 | 04/07/86 | 5.00% |
| 43-15 | \$ 3,211.02 | 03/21/88 | 4.50% |
| 43-15 | \$ 3,324.24 | 07/14/89 | 4.50% |
| 44-16 | \$ 2,640.00 | 06/05/86 | 5.00% |
| 44-16 | \$ 2,876.52 | 03/21/88 | 5.00% |
| 44-16 | \$ 2,989.22 | 07/14/89 | 5.00% |

The Court further finds that as security for promissory notes 43-15 (\$3,323.24) and 41-18 (\$78,465.20), Roger Greg King executed and delivered to the United States of America, acting through the Farmers Home Administration, the following described real estate mortgages:

| <u>Instrument</u> | <u>Dated</u> | <u>Filed</u> | <u>County</u> | <u>Book</u> | <u>Page</u> |
|-------------------|--------------|--------------|---------------|-------------|-------------|
| Mortgage | 01/10/80 | 01/10/80 | Ottawa | 396 | 170 |
| Mortgage | 05/28/81 | 05/28/81 | Ottawa | 407 | 491 |
| Mortgage | 07/31/89 | 07/31/89 | Ottawa | 476 | 811 |

These mortgages cover the above-described property, situated in the State of Oklahoma, Ottawa County.

The Court further finds that as collateral security for the payment of the above-described notes, Roger Greg King executed and delivered to the United States of America, acting through the Farmers Home Administration, the following financing statements and security agreements:

| <u>Instrument</u> | <u>Dated</u> | <u>Filed</u> | <u>County</u> | <u>File Number</u> |
|-------------------------------|--------------|--------------|------------------|--------------------|
| Financing Stmt. | 02/11/80 | 02/11/80 | Ottawa | 362 |
| Continuation Stmt. | 01/16/85 | 01/16/85 | Ottawa | 128 |
| Continuation Stmt. | 01/31/90 | 01/31/90 | Ottawa | 125 |
| Effective Financing Statement | | 07/11/89 | Okla. Sec. State | 898855 |
| Security Agreement | 02/11/80 | | | |
| Security Agreement | 05/28/81 | | | |
| Security Agreement | 05/12/83 | | | |
| Security Agreement | 05/12/84 | | | |
| Security Agreement | 05/12/85 | | | |
| Security Agreement | 03/26/86 | | | |
| Security Agreement | 03/11/88 | | | |
| Security Agreement | 04/08/89 | | | |
| Security Agreement | 05/10/90 | | | |

These security agreements cover the following described personal property:

| <u>Quantity</u> | <u>Description</u> |
|-----------------|--|
| 1 | 1978 Ford Tractor, Serial #C547853 |
| 1 | 1956 Oliver Tractor, Serial #195484518 |

The Court further finds that on September 26, 1988, the United States of America acting through the Farmers Home Administration released Susie M. King from personal liability to the government for the indebtedness and obligation of said notes and security instruments.

The Court further finds that the Defendant, Roger Greg King, made default under the terms of the aforesaid notes, mortgages, and security agreements by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Roger Greg King, is indebted to the Plaintiff in the principal sum of \$97,832.15, plus accrued interest in the amount of \$7,002.12 as of September 9, 1991, plus interest accruing thereafter at the rate of \$8.9715 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$8.00 for recording Notice of Lis Pendens.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Ottawa County, Oklahoma, have a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$299.37, plus penalties and interest. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Ottawa County, Oklahoma, have a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$26.94. Said lien is inferior to the interest of the Plaintiff, United States of America.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendant, Roger Greg King, in the principal sum of \$97,832.15, plus accrued interest in the amount of \$7,002.12 as of September 9, 1991, plus interest accruing thereafter at the rate of \$8.9715 per day until judgment, plus interest thereafter at the current legal rate of 3.76 percent per annum until paid, plus the costs of this action in the amount of \$8.00 for recording Notice of Lis Pendens, 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, Ottawa County, Oklahoma, have and recover judgment in the amount of \$299.37, plus penalties and interest, for ad valorem taxes, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Ottawa County, Oklahoma, have and recover judgment in the amount of \$26.94 for personal property taxes, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Roger Greg King, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisalment the personal and 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 personal and real property;

Second:

In payment of Defendants, County Treasurer and Board of County Commissioners, Ottawa County, Oklahoma, in the amount of \$299.37, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

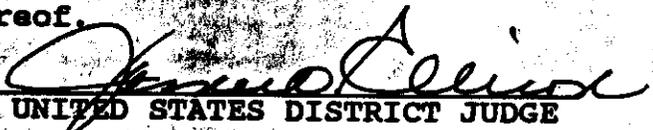
In payment of the judgment rendered herein in favor of the Plaintiff;

Fourth:

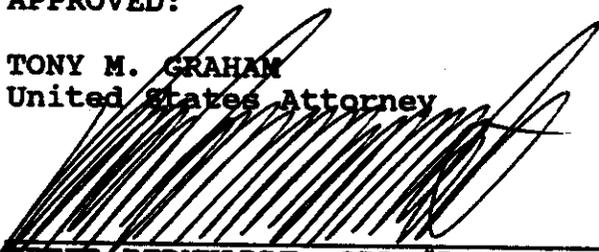
In payment of Defendants, County Treasurer and Board of County Commissioners, Ottawa County, Oklahoma, in the amount of \$26.94, personal property taxes which are currently due and owing.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described personal and 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 personal and real property or any part thereof.


UNITED STATES DISTRICT JUDGE

APPROVED:


TONY M. GRAHAM
United States Attorney

PETER BERNHARDT, OBA #741
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


~~JACK L. SMITH, OBA #8362~~ Wesley Combs
Assistant District Attorney OBA # 15026
102 East Central, Suite 301
Miami, Oklahoma 74354
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Ottawa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 92-C-521-E

PB/css

FILED

DEC 7 1992

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

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

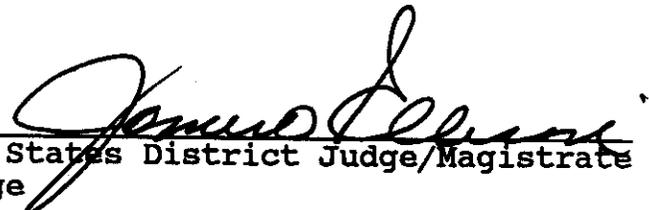
VICKIE WILLIAMSON,)
)
 Plaintiff,)
)
 vs.)
)
 SCOTT A. MILLER,)
)
 Defendant.)

Case No. 92-C-522-E

ENTERED ON DOCKET
DATE **DEC 9 1992**

ORDER OF DISMISSAL WITHOUT PREJUDICE

NOW on this 7th day of December, 1992, this Court is presented with a Stipulation of Dismissal Without Prejudice entered into by the parties hereto. The Court finds and orders that the above captioned matter should be and is hereby ordered dismissed without prejudice.


United States District Judge/Magistrate
Judge

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

FILED
DEC 7 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CHRISTOPHER WALKER,)
)
Plaintiff,)
)
vs.)
)
PAUL O'KEEFE and THE CITY)
OF HOMINY,)
)
Defendants.)

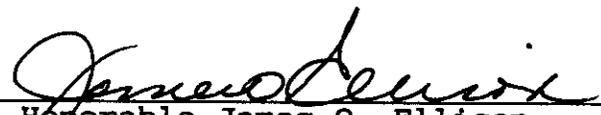
Case No. 92 CV 401 E

ENTERED ON DOCKET
DATE DEC 8 1992

ORDER OF DISMISSAL

Upon Motion of Defendants, Paul O'Keefe and The City of Hominy, pursuant to Rule 4(j) of the Federal Rules of Civil Procedure, Plaintiff having failed to serve Defendants with a copy of the Complaint and Summons within 120 days after the Complaint and Summons were issued by this Court, the Complaint in the above-styled matter is hereby dismissed without prejudice.

DATED this 7th day of ~~November~~ ^{Dec.}, 1992.


The Honorable James O. Ellison
United States District Court
Northern District of Oklahoma

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FILED

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

DEC 7 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MICHELLE LEA GERKE,

Plaintiff,

vs.

92-C-235-E

ROGER GAUTIER, AMERICAN STATES
INSURANCE COMPANY, and STATE
FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY,

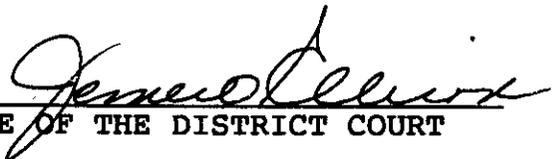
Defendants.

ENTERED ON DOCKET
DEC 8 1992
DATE

ORDER OF DISMISSAL

Plaintiff has filed a Stipulation of Dismissal as to American States Insurance Company Only and the Court being advised in the premises does hereby dismiss the claims of Plaintiff against American States Insurance Company only with prejudice and preserves her claims against all other defendants.

Dated this 7th day of December, 1992.


JUDGE OF THE DISTRICT COURT

ENTERED ON DOCKET
DATE DEC 8 1992

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 7 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STEVEN EUGENE HANES and
ANNA HANES, Husband and Wife,

Plaintiffs,

vs.

PATRICK ALLEN NICHOLS,

Defendant/Third
Party Plaintiff,

CIVIL ACTION NO. 92-C-144-E

vs.

LOUIS W. SULLIVAN, M.D.,
Secretary of the United States
Department of Health and Human
Services,

Third Party Defendant.

ORDER

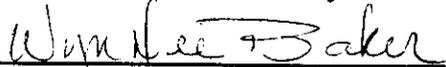
Upon the motion of the United States of America, acting on behalf of the Secretary of Health and Human Services, it is hereby ORDERED that the United States' Counterclaims against plaintiff Steven Eugene Hanes and defendant/third party plaintiff Patrick Allen Nichols be dismissed without prejudice, the parties to bear their own costs and attorneys' fees.

Dated this 7th day of December, 1992.


JAMES O. ELLISON, Chief
United States District Judge

SUBMITTED BY:

TONY M. GRAHAM
United States Attorney


WYNDEE BAKER, OBA #465
Assistant United States Attorney

36

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET
DEC 8 1992
DATE _____

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 BRYAN D. STACY; CELESTE D.)
 STACY; HEIDI CRABTREE a/k/a)
 HEIDI ESKRIDGE; TULSA REGIONAL)
 MEDICAL CENTER f/k/a OSTEOPATHIC)
 HOSPITAL FOUNDERS ASSOCIATION,)
 a corporation d/b/a Oklahoma)
 Osteopathic Hospital;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED

DEC 7 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 91-C-664-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 7th day of December, 1992. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney; the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appear by J. Dennis Semler, Assistant District Attorney, Tulsa County, Oklahoma; the Defendant, Tulsa Regional Medical Center f/k/a Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, appears by its attorney Mark W. Dixon; and the Defendants, Bryan D. Stacy, Celeste D. Stacy, and Heidi Crabtree a/k/a Heidi Eskridge, appear not, but make default.

The Court being fully advised and having examined the court file finds that the Defendant, Heidi Crabtree a/k/a Heidi

Eskridge, acknowledged receipt of Summons and Complaint on June 16, 1992; that the Defendant, Tulsa Regional Medical Center f/k/a Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, acknowledged receipt of Summons and Complaint on September 16, 1991; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on September 3, 1991; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on September 3, 1991.

The Court further finds that the Defendants, Bryan D. Stacy and Celeste D. Stacy, were served by publishing notice of this action in the Tulsa Daily Commerce & Legal News, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning July 23, 1992, and continuing through August 27, 1992, 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, Bryan D. Stacy and Celeste D. Stacy, 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, Bryan D. Stacy and Celeste D. Stacy. 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 Secretary of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, 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 to subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on September 23, 1991; that the Defendant, Tulsa Regional Medical Center f/k/a Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, filed its Answer on September 16, 1991; and that the Defendants, Bryan D. Stacy, Celeste D. Stacy, and Heidi Crabtree a/k/a Heidi Eskridge, have failed to answer and their default has therefore been entered by the Clerk of this Court.

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

Lot Thirty-one (31), Block Four (4), LEISURE PARK II, an Addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on February 16, 1983, the Defendants, Bryan D. Stacy and Celeste D. Stacy, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, their mortgage note in the amount of \$54,000.00, payable in monthly installments, with interest thereon at the rate of twelve percent (12%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Bryan D. Stacy and Celeste D. Stacy, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated February 16, 1983, covering the above-described property. Said mortgage was recorded on February 18, 1983, in Book 4670, Page 40, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Bryan D. Stacy and Celeste D. Stacy, 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, Bryan D. Stacy and Celeste D. Stacy, are indebted to the Plaintiff in the principal sum of \$52,085.90, plus interest at the rate of 12 percent per annum from November 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$300.95 for publication fees.

The Court further finds that the Defendant, Tulsa Regional Medical Center f/k/a Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, has a lien on the property which is the subject matter of this action in the amount of \$ 1318.69, plus interest at the legal rate until fully paid, by virtue of a Journal Entry of Judgment, Case No. CSJ-83-34, District Court, Tulsa County, State of Oklahoma, dated February 18, 1982, and recorded on March 8, 1983, in Book 4673, Page 2372 in the records of Tulsa County, Oklahoma; and by virtue of an Execution, Case No. CSJ-83-34, District Court, Tulsa County, State of Oklahoma, dated January 25, 1988, and recorded on January 29, 1988, in Book 5077, Page 0614 in the records of Tulsa County, Oklahoma. Said lien is inferior to the interest of the Plaintiff, United States of America.

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

The Court further finds that the Defendant, Heidi Crabtree a/k/a Heidi Eskridge, 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, **Bryan D. Stacy and Celeste D. Stacy**, in the principal sum of \$52,085.90, plus interest at the rate of 12 percent per annum from November 1, 1989, until judgment, plus interest thereafter at the current legal rate of 3.76 percent per annum until paid, plus the costs of this action in the amount of \$300.95 for publication fees, 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, Tulsa Regional Medical Center f/k/a Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, have and recover judgment in the amount of \$ 1318.69, plus interest at the legal rate until fully paid, by virtue of a Journal Entry of Judgment, Case No. CSJ-83-34, District Court, Tulsa County, State of Oklahoma, dated February 18, 1982, and recorded on March 8, 1983, in Book 4673, Page 2372 in the records of Tulsa County, Oklahoma; and by virtue of an Execution, Case No. CSJ-83-34, District Court, Tulsa County, State of Oklahoma, dated January 25, 1988, and recorded on January 29, 1988, in Book 5077, Page 0614 in the records of Tulsa County, Oklahoma.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Bryan D. Stacy and Celeste D. Stacy, to satisfy the in rem judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without 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:

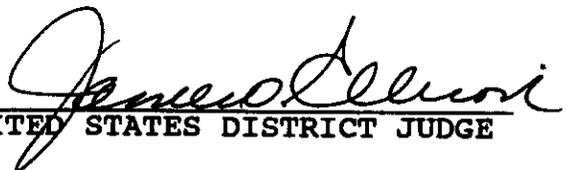
In payment of the judgment rendered herein in favor of the Plaintiff;

Fourth:

In payment of the judgment rendered herein in favor of the Defendant, Tulsa Regional Medical Center f/k/a Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital County, Oklahoma.

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:

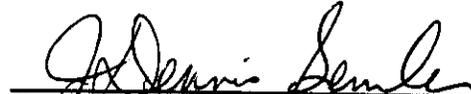
TONY M. GRAHAM
United States Attorney



~~KATHLEEN BLISS ADAMS~~, OBA #13625
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



MARK W. DIXON, OBA #~~2374~~ 2378
Mapco Plaza Building
1717 South Boulder, Suite 200
Tulsa, Oklahoma 74119
(918) 582-3191
Attorney for Defendant,
Tulsa Regional Medical Center
f/k/a Osteopathic Hospital Founders Association, a corporation
d/b/a Oklahoma Osteopathic Hospital



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
406 Tulsa County Courthouse
Tulsa, Oklahoma 74013
(918) 596-4841
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 91-C-664-E

KBA/css

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

FILED
DEC 7 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

BARON L. LEWIS,)
)
 Plaintiff,)
)
 v.)
)
 SECRETARY OF HEALTH AND HUMAN)
 SERVICES,)
)
 Defendant.)

91-C-0695-E

ENTERED ON DOCKET
DATE DEC 8 1992

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed November 13, 1992 in which the Magistrate Judge recommended that the case be remanded to the Secretary. Further that testimony from a vocational expert must be taken to determine if Lewis can return to his past relevant work. If he cannot, then the burden shifts to the Secretary on step 5 (i.e. whether the impairment of Lewis precludes the claimant from doing any type of work). Also, the Secretary should re-examine the medical evidence submitted by Dr. Nebergall, and review same consistent wit this opinion.¹

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 United States Magistrate Judge should be and hereby is adopted and affirmed.

¹ The Secretary also may have Lewis examined by one of its consultants.

It is, therefore, Ordered that the recommendations of the Magistrate Judge are hereby adopted as set forth above.

SO ORDERED THIS 7th day of December, 1992.



JAMES O. ELLISON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

FILED
DEC 7 1992

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

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

PAUL MEADOWS and DAVID KEITH,)
)
 Plaintiffs,)
)
 -vs-)
)
 SCOTT WANZER,)
)
 Defendant.)

Case No. 91-C-271-E

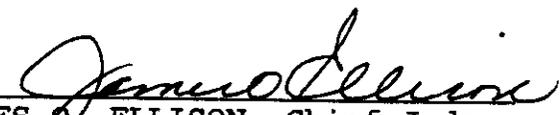
ENTERED ON DOCKET
DEC 8 1992
DATE

STIPULATED JOURNAL ENTRY OF JUDGMENT

The parties herein enter into this Stipulated Journal Entry of Judgment and stipulate and agree that Plaintiffs are entitled to damages in the amount of Five Thousand and 00/100 Dollars (\$5,000.00) and that Defendant will dismiss his appeal to the Tenth Circuit Court of Appeals.

IT IS ORDERED AND ADJUDGED that the Plaintiffs, Paul Meadows and David Keith, recover from the Defendant the sum of Five Thousand and 00/100 Dollars (\$5,000.00).

Dated this 7th day of December, 1992.


JAMES O. ELLISON, Chief Judge
United States District Court

APPROVED:


ANTHONY M. LAIZURE
Attorney for Plaintiffs


MICHAEL C. ROMIG
Attorney for Defendant

ENTERED ON DOCKET

DATE DEC 8 1992

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 7 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AARON V. HUNT; SHARON SUE MARMON
a/k/a SHARON SUE HUNT;
COUNTY TREASURER, Ottawa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Ottawa County,
Oklahoma,

Defendants.

) CIVIL ACTION NO. 91-C-0086-E

DEFICIENCY JUDGMENT

This matter comes on for consideration this 7th day of December, 1992, upon the Motion of the Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, for leave to enter a Deficiency Judgment. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney, and the Defendants, Aaron V. Hunt and Sharon Sue Marmon a/k/a Sharon Sue Hunt n/k/a Sharon Sue Keelow, appears neither in person nor by counsel.

The Court being fully advised and having examined the court file finds that a copy of Plaintiff's Motion was mailed by certified return receipt addressee restricted mail and by first-class mail to Aaron V. Hunt, Rt. 5, Box 114, Neosho, Missouri 64850; and by certified return receipt addressess restricted mail to Sharon Sue Marmon a/k/a Sharon Sue Hunt n/k/a Sharon Sue Keelow, Rt. 1, Box 5A, Wyandotte, Oklahoma 74370; and by first-class mail to all answering parties and/or counsel of record.

The Court further finds that the amount of the Judgment rendered on July 17, 1991, in favor of the Plaintiff United States of America, and against the Defendants, Aaron V. Hunt and Sharon Sue Marmon a/k/a Sharon Sue Hunt n/k/a Sharon Sue Keelow, with interest and costs to date of sale is \$8,467.07.

The Court further finds that the appraised value of the real property at the time of sale was \$1,000.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered July 17, 1991, for the sum of \$5,334.00 which is more than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on

11/3, 1992.

The Court further finds that the Plaintiff, United States of America on behalf of the Secretary of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendants, Aaron V. Hunt and Sharon Sue Marmon a/k/a Sharon Sue Hunt n/k/a Sharon Sue Keelow, as follows:

| | |
|--|-------------------|
| Principal Balance plus pre-Judgment Interest as of July 17, 1991 | \$7,004.65 |
| Interest From Date of Judgment to Sale | 446.37 |
| Late Charges to Date of Judgment | 188.44 |
| Appraisal by Agency | 350.00 |
| Abstracting | 127.00 |
| Publication Fees of Notice of Sale | 125.61 |
| Court Appraisers' Fees | <u>225.00</u> |
| TOTAL | \$8,467.07 |
| Less Credit of Sale Proceeds | - <u>5,334.00</u> |
| DEFICIENCY | \$3,133.07 |

plus interest on said deficiency judgment at the legal rate of 3.76 percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the sale proceeds of the property herein.

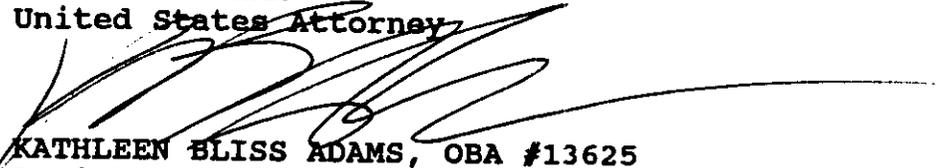
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Secretary of Veterans

Affairs have and recover from Defendants, Aaron V. Hunt and Sharon Sue Marmon a/k/a Sharon Sue Hunt n/k/a Sharon Sue Keelow, a deficiency judgment in the amount of \$3,133.07, plus interest at the legal rate of 3.76 percent per annum on said deficiency judgment from date of judgment until paid.


UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney


KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

KBA/esr

ENTERED ON DOCKET

DATE 12-8-92

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

FILED

DEC - 4 1993

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ATLANTIC RICHFIELD COMPANY,)
)
Plaintiff,)
)
v.)
)
AMERICAN AIRLINES, INC., Et. Al.,)
)
Defendants.)

Consolidated Cases Nos.

89-C-868-B

89-C-869-B

90-C-859-B

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Now on this 4th day of December, 1992, all parties hereto please take notice that pursuant to Rule 41 (a) of the Federal Rules of Civil Procedure and Section V. of the Case Management Order the Plaintiff hereby dismisses without prejudice this action against the following Defendants only, and expressly reserves its causes of action against all other Defendants, not heretofore dismissed from this action:

1. Regency Oldsmobile, Inc.
2. A. W. Jenkins
3. Edgar Gilbert



Gary A. Eaton, OBA #2598
Attorney at Law
1717 East 15th St.
Tulsa, OK 74104
918 743 8781

CERTIFICATE OF MAILING

The undersigned certifies that on December 4, 1992, a true and correct copy of the above instrument / pleading was mailed with postage prepaid to the following persons:

Mr. Larry Gutteridge, Co-Counsel for Plaintiff, 633 West 5th Street, 35th Floor, Los Angeles, California 90071

Mr. William Anderson, Attorney at Law and Liaison Counsel and Co-Lead Counsel for Owners and Non-Operator Lessees Group, 320 South Boston Building, Suite 500, Tulsa, OK 74103

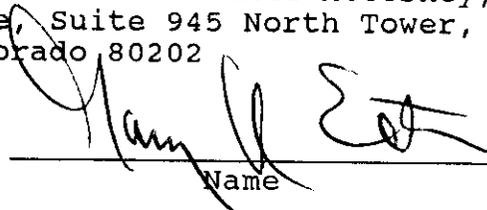
Mr. John Tucker, Lead Counsel for Non Group Generators and Transporters, 2800 Fourth National Bank Building, Tulsa, OK 74119

Mr. Steven Harris, Attorney at Law and Lead Counsel for Operators Group, Suite 260 Southern Hills Tower, 2431 East 61st Street, Tulsa, OK 74136

Mr. Charles Shipley, Attorney at Law and Settlement Coordinator, 3600 First National Tower, Tulsa, OK 74103

Ms. Claire V. Eagan, Mr. Michael Graves, and Mr. Matthew Livengood, Attorneys at Law and Lead Counsel for the Sand Springs PRP Group, 4100 Bank of Oklahoma Tower, One Williams Center, Tulsa, OK 74172

Mr. Bradley S. Bridgewater, Assistant United States Attorney, United States Department of Justice, Suite 945 North Tower, 999 Eighteenth Street, Denver, Colorado 80202


Name

Thus, for all the above reasons, the court shall dismiss Tolliver's petition without prejudice at this time.

SO ORDERED THIS 4 day of Dec., 1992.



THOMAS R. BRETT
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 4 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

IN RE: RONALD G. MOORE
DONRAE MOORE

Debtors

No. 92-17-W

ENTERED ON DOCKET

William J. Wade, Trustee

DEC 7 1992

DATE

Plaintiff

vs

Dist. No. 92-C-256-E

Adv. No. 92-19-W

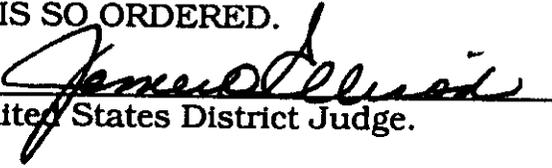
RONALD G. MOORE and DONRAE
MOORE

Defendants

ORDER OF DISMISSAL

The court having considered the application of the Plaintiff to dismiss its appeal herein for the reason all of the issues in said appeal are moot, the court finds that this appeal by William J. Wade, Trustee, should be dismissed.

IT IS SO ORDERED.


United States District Judge.

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

JAMES E. RYAN,

Plaintiff,

vs.

LOUIS W. SULLIVAN, M.D.,
SECRETARY OF HEALTH AND
HUMAN SERVICES.

Defendant.

FILED

DEC 4 1992

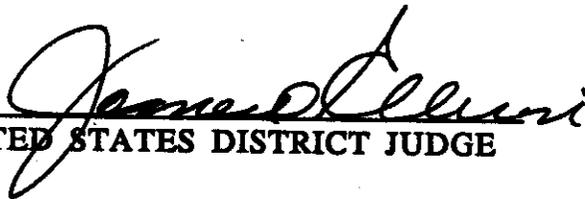
Richard M. [unclear] Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CASE NO. 92-C-452-E

ORDER

Upon the Motion of Louis W. Sullivan, Secretary of the Department of Health and Human Services, by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney, and for good cause shown it is hereby ORDERED that the above-styled case be remanded to the Defendant for further administrative proceedings.

Dated this 7th day of Dec., 1992.


UNITED STATES DISTRICT JUDGE

SUBMITTED BY:


KATHLEEN BLISS ADAMS, OBA # 13625
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

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

FILED

DEC -4 1992

LINDA A. KOCH and ELIZABETH)
C. MILLS,)

Plaintiffs,)

vs.)

CENTURY HEALTHCARE)
CORPORATION, an Oklahoma)
corporation,)

Defendant.)

Case No. 92-C-270-E

ENTERED ON DOCKET

DATE DEC 7 1992

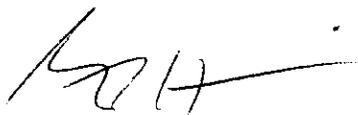
RICHARD M. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

STIPULATION OF DISMISSAL WITH PREJUDICE

COME NOW Plaintiffs and Defendant, by and through their
respective attorneys of record, and stipulate to the dismissal of the above
styled and numbered cause with prejudice to any future action.

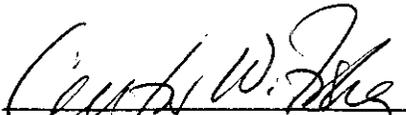
Respectfully submitted,

FRASIER & FRASIER

BY: 

Steven R. Hickman OBA#4172
1700 Southwest Blvd, Suite 100
P. O. Box 799
Tulsa, OK 74101
918/584-4724
Attorneys for Plaintiff

CHAPEL, RIGGS, ABNEY, NEAL
& TURPEN

BY: 

Curtis W. Fisher OBA#2934
502 W. 6th
Tulsa, OK 74119-1010
918/587-3161
Attorneys for Defendant

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

BRENT WADE PRATER, an individual,)
)
 Plaintiff,)
)
 vs.)
)
 MINE SAFETY APPLIANCE)
 COMPANY, a Pennsylvania)
 Corporation,)
)
 Defendant,)
)
 and)
)
 GILBERT CENTRAL CORPORATION)
 and AETNA LIFE & CASUALTY)
 COMPANY,)
)
 Interveners.)

Case No. CIV 91 C 768-B

FILED
DEC 4 1992
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL WITH PREJUDICE

Upon Application for Dismissal with Prejudice by the
Plaintiff, Brent Wade Prater, and for good cause shown;

THE COURT FINDS that the above styled and numbered cause
should be dismissed with prejudice to the refileing of any future
action.

IT IS SO ORDERED, this 4th day of December, 1992.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

FILED

DEC 2 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RICKEY LEE VANN,

Plaintiff,

v.

STANLEY GLANZ, et al,

Defendants.

92-C-667-B ✓

ORDER

Defendant filed a Motion To Dismiss on September 1, 1992. On October 20, 1992, the Magistrate granted Plaintiff an additional 20 days to respond, but warned that a second failure to respond would be considered a confession of the motion pursuant to Local Rule 15(A) of the Northern District of Oklahoma. As of November 30, 1992, Plaintiff has still not responded to the motion. Therefore, Defendant's Motion To Dismiss is GRANTED.

SO ORDERED THIS 2 day of Dec., 1992.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 0 1992
FILED

DEC 3 - 1992

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

AMERICAN CENTRAL GAS COMPANIES, INC.,)
a Delaware corporation,)
)
Plaintiff,)
)
v.)
)
RICHARD A. HALE,)
an individual,)
)
Defendant.)

Case No. 92-C-109B-^{1090B}

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Plaintiff, American Central Gas Companies, Inc., pursuant to Fed. R. Civ. P. 41(a)(1)(i), hereby dismisses its cause of action against the Defendant, Richard A. Hale, without prejudice to the refiling thereof.

Respectfully submitted,


Kenneth F. Albright, OBA #00181
Dale Joseph Gilsinger, OBA #10821
Heath E. Hardcastle, OBA #14247
ALBRIGHT & GILSINGER
2600 Fourth National Bank Bldg.
15 West Sixth Street
Tulsa, Oklahoma 74119
(918) 583-5800

ATTORNEYS FOR PLAINTIFF
AMERICAN CENTRAL GAS COMPANIES, INC.

DATE DEC 07 1992

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

INTERSTATE GAMING SERVICES, INC.,)
 an Illinois Corporation,)
)
 Plaintiff,)
)
 vs.)
)
 WAYNE NEWTON SENECA-CAYUGA)
 GAMING, INC., a Nevada Corporation,)
 d/b/a WAYNE NEWTON'S FIRST)
 AMERICAN'S HIGH STAKES BINGO,)
)
 Defendants.)

Case No. 92-C-329-B ✓

FILED
DEC 2 1992 *OK*

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

The Complaint in this matter was filed April 21, 1992. The record fails to reflect any Return of Service indicating service upon Wayne Newton Seneca-Cayuga Gaming, Inc. The case is subject to dismissal without prejudice pursuant to Rule 4(j), Federal Rules of Civil Procedure.

The Court concludes this matter should be and the same is hereby Dismissed Without Prejudice.

IT IS SO ORDERED THIS 27th DAY OF DECEMBER, 1992.

Thomas R. Brett

 THOMAS R. BRETT
 UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RONNIE D. CORN; DARLENE CORN;)
 ACHIM ZEIDLER; LENA ZEIDLER;)
 COUNTY TREASURER, Tulsa)
 County, Oklahoma; BOARD OF)
 COUNTY COMMISSIONERS, Tulsa)
 County, Oklahoma,)
)
 Defendants.)

FILED

DEC 1 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 92-C-559-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 2nd day of Dec., 1992. 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, Ronnie D. Corn and Darlene Corn, appear through their attorney, Taryk S. Ferris; the Defendant, County Treasurer, Tulsa County, Oklahoma, appears by J. Dennis Semler, Assistant District Attorney, Tulsa County, Oklahoma; the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, appears not, having previously disclaimed any right, title or interest in the subject property; and the Defendants, Achim Zeidler and Lena Zeidler, appear not, but make default.

The Court, being fully advised and having examined the court file, finds that the Defendant, Ronnie D. Corn, acknowledged receipt of Summons and Complaint on August 24, 1992; the Defendant, Darlene Corn, acknowledged receipt of Summons and Complaint on September 3, 1992; the Defendant, Achim Zeidler, acknowledged

receipt of Summons and Complaint on July 15, 1992; the Defendant, Lena Zeidler, acknowledged receipt of Summons and Complaint on July 15, 1992; the Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on July 1, 1992; and the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on July 7, 1992.

It appears that the Defendants, Ronnie D. Corn and Darlene Corn, appear through their attorney, Taryk S. Ferris, but there was no Answer filed; Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on July 28, 1992; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on July 28, 1992, disclaiming any right, title or interest in the property; and that the Defendants, Achim Zeidler and Lena Zeidler, 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 Seven (7), Block Four (4), in INDIAN SPRINGS PARK II, an Addition to the City of Broken Arrow, Oklahoma, according to the recorded plat thereof.

The Court further finds that on October 8, 1987, the Defendants, Ronnie D. Corn and Darlene Corn, executed and delivered to the United States of America, acting on behalf of the

Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, their mortgage note in the amount of \$62,500.00, payable in monthly installments, with interest thereon at the rate of 10 percent (10%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Ronnie D. Corn and Darlene Corn, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated October 8, 1987, covering the above-described property. Said mortgage was recorded on October 8, 1987, in Book 5056, Page 2259, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Ronnie D. Corn and Darlene Corn, 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, Ronnie D. Corn and Darlene Corn, are indebted to the Plaintiff in the principal sum of \$60,998.03, plus interest at the rate of 10 percent per annum from August 1, 1991 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes of Achim and Lena Zeidler in the amount of \$64.00 which became a lien on the property as of June 26, 1992. Said lien is

inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendants, Ronnie D. Corn and Darlene Corn, have no right, title or interest in the subject real property.

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

The Court further finds that the Defendants, Achim Zeidler and Lena Zeidler, are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Ronnie D. Corn and Darlene Corn, in the principal sum of \$60,998.03, plus interest at the rate of 10 percent per annum from August 1, 1991 until judgment, plus interest thereafter at the current legal rate of 3.76 percent per annum until paid, plus the costs of this action, 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 \$64.00 for personal property taxes for the year 1991 against Achim Zeidler and Lena Zeidler, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Ronnie D. Corn, Darlene Corn, Achim Zeidler, and Lena Zeidler, have no right, title, or interest in the subject real property.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Ronnie D. Corn and Darlene Corn, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without 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 judgment rendered herein in favor of the Plaintiff;

Third:

In payment of Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$64.00, for personal property taxes against Achim Zeidler and Lena Zeidler, which are currently due and owing.

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

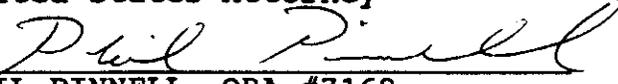
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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

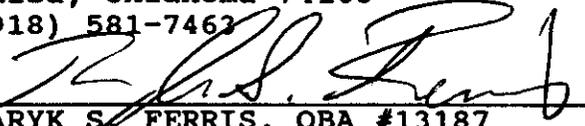
S/ THOMAS R. BRETT

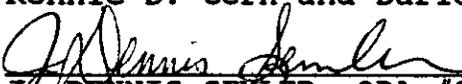
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


PHIL PINNELL, OBA #7169
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7462


TARYK S. FERRIS, OBA #13187
Attorney for Defendants,
Ronnie D. Corn and Darlene Corn


J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendant,
County Treasurer,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 92-C-559-B

PP/esr

DEC 07 1992

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEVEN PARCELS OF REAL
PROPERTY, WITH ALL BUILDINGS,
APPURTENANCES, AND IMPROVEMENTS,
AND ALL WITHIN THE CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA,
KNOWN AS FOLLOWS:

1) 2022 EAST 12TH STREET;

and

2) 2207 NORTH ATLANTA;

and

3) 2553 NORTH NORFOLK;

and

4) 822 NORTH GARY PLACE;

and

5) 1347 NORTH TROOST;

and

6) 1013 & 1015 NORTH ROCKFORD;

and

7) 1207 SOUTH QUAKER;

Defendants.

CIVIL ACTION NO. 92-C-298-B

FILED

DEC 7 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT OF FORFEITURE

This cause having come before this Court upon the
Stipulation for Forfeiture executed by and between Plaintiff, the
United States of America, and Brian Maurice Fuller, a/k/a Kevin

Clay Felts, Kevin Felts, and Clay Felts, the owner of the real property located at 1347 North Troost, Tulsa, Oklahoma, and the person from whom it was seized; and the Court, being fully apprised in the premises, finds as follows:

That the Complaint for Forfeiture In Rem was filed in this action on the 10th day of April 1992, alleging that the defendant real property at 1347 North Troost, Tulsa, Oklahoma, with its buildings, appurtenances, and improvements is subject to forfeiture pursuant to Title 18 U.S.C. § 981 because it was property involved in a transaction(s), or attempted transaction(s), in violation of 18 U.S.C. §§ 1956 and 1957, or is property traceable to such property.

That a Warrant of Arrest and Notice In Rem was issued on the 13th day of April, 1992, by the Honorable Thomas R. Brett, United States District Judge for the Northern District of Oklahoma, as to the defendant real property located at 1347 North Troost, Tulsa, Oklahoma, its buildings, appurtenances, and improvements.

That the United States Marshals Service served a copy of the Complaint for Forfeiture In Rem and the Warrant of Arrest and Notice In Rem on the defendant real property located at 1347 North Troost, Tulsa, Oklahoma, its buildings, appurtenances, and improvements on the 5th day of June, 1992.

That the United States Marshals Service personally served all persons having an interest in the following-described real property located at 1347 North Troost, Tulsa, Oklahoma, as well as the County Treasurer of Tulsa County, Oklahoma, as to any pending ad valorem taxes, as follows:

**BRIAN MAURICE FULLER,
a/k/a KEVIN CLAY FELTS,
KEVIN FELTS, and CLAY FELTS**

May 26, 1992

**COUNTY TREASURER OF TULSA
COUNTY, OKLAHOMA**

June 12, 1992

That USMS Forms 285 reflecting the services set forth above are on file herein.

That all persons interested in the defendant real property hereinafter described were required to file their claims herein within ten (10) days after service upon them of the Warrant of Arrest and Notice In Rem, publication of the Notice of Arrest and Seizure, or actual notice of this action, whichever occurred first, and were required to file their answer(s) to the Complaint within twenty (20) days after filing their respective claim(s).

That Randall L. Haskins, a/k/a Randy L. Haskins, filed his Notice of Claim to the defendant real property located at 1347 North Troost, Tulsa, Oklahoma, on June 15, 1992, but subsequently failed to file an Answer within the prescribed period of time. On October 1, 1992, the plaintiff filed its Motion to

Strike Notice of Claim of Randall L. Haskins, citing as grounds therefor that the Claim was not verified, as required by Rule C(6) of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure (Supplemental Rules); that the Claimant failed to file an answer within twenty days after filing his Claim; that the Claimant lacked standing as a claimant and could not demonstrate a cognizable interest in the defendant real property, and that the Claim did not cite that the person who executed and filed the claim was authorized to do so. On October 23, 1992, the Court entered an Order Striking Notice of Claim of Randall L. Haskins.

An Answer to plaintiff's Complaint was filed by John F. Cantrell, Tulsa County Treasurer, on July 2, 1992, stating that as such County Treasurer he claims no right, title, or interest in and to the defendant real properties, including the property located at 1347 North Troost, Tulsa, Oklahoma.

That the Board of County Commissioners of Tulsa County, Oklahoma, although not served with Summons and Complaint as a potential claimant in this action, likewise filed only an Answer to plaintiff's Complaint, on July 2, 1992, stating that it (the Board of County Commissioners) does not claim any right, title, or interest in the subject real properties, including the property located at 1347 North Troost, Tulsa, Oklahoma.

That no other individuals or entities have filed Claims and Answers to the defendant real property located at 1347 North Troost, Tulsa, Oklahoma, hereinafter described.

That the United States Marshals Service gave public notice of this action and arrests to all persons and entities by advertisement in the Tulsa Daily Commerce and Legal News, Tulsa, Oklahoma, on June 25 and July 2 and 9, 1992, and that Proof of Publication was filed of record on August 12, 1992.

That no other claims, answers, or other defenses have been filed by the defendant real property located at 1347 North Troost, Tulsa, Oklahoma, hereinafter described, or any persons or entities having an interest therein.

That the Plaintiff and Brian Maurice Fuller, a/k/a Kevin Clay Felts, Kevin Felts, and Clay Felts, entered into a Stipulation for Forfeiture, setting forth the agreement between them, wherein Brian Maurice Fuller, a/k/a Kevin Clay Felts, consented to the forfeiture of the defendant real property hereinafter described, and located at 1347 North Troost, Tulsa, Tulsa County, Oklahoma, and that such Stipulation for Forfeiture was filed in this cause of action on May 12, 1992.

That on April 17, 1992, Brian Maurice Fuller, a/k/a Kevin Clay Felts, Kevin Felts, and Clay Felts, executed a Quit-Claim Deed to the United States of America of all of his interest in and to the defendant real properties, including the property

located at 1347 North Troost, Tulsa, Oklahoma, and that such Quit-Claim Deed was duly recorded in the office of the County Clerk of Tulsa County, Oklahoma, on May 21, 1992, in Book 5406 at Page 1859, as Instrument No. 92 043710.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following-described defendant property:

Lot 11, Block 5, UTICA ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, a/k/a 1347 North Troost, Tulsa, Oklahoma,

and that the real property above-described be, and it is, hereby forfeited to the United States of America for disposition by the United States Marshal according to law, and that no right, title, or interest shall exist in any other party.

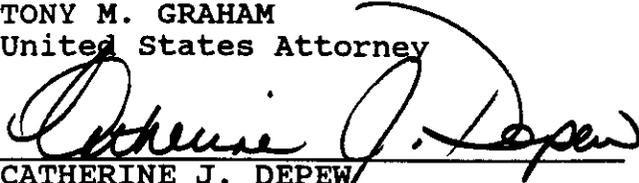
Entered this 2nd day of ^{December} ~~November~~, 1992.

~~S/ THOMAS R. BRETT~~
THOMAS R. BRETT, Judge of the
United States District Court
for the Northern District of
Oklahoma

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney

A handwritten signature in black ink, appearing to read "Catherine J. DePew", is written over a horizontal line.

CATHERINE J. DEPEW
Assistant United States Attorney

CJD/ch

N:\UDD\CHOOK\FC\FELTS\02532

ENTERED ON DOCKET
DEC 07 1992
FATE DEC 07 1992

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

DEC 2 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

DENNIS C. ENLOE,

Plaintiff,

vs.

GOLDEN RULE INSURANCE COMPANY,

Defendant.

No. 91-C-614-B ✓

J U D G M E N T

In accord with the Order filed November 2, 1992, sustaining the Defendant's Motion for Summary Judgment, the Court hereby enters judgment in favor of the Defendant, Golden Rule Insurance Company, and against the Plaintiff, Dennis C. Enloe. Plaintiff shall take nothing on his claim. Costs are assessed against the Plaintiff, if timely applied for under Local Rule 6, and each party is to pay its respective attorney's fees.

Dated, this 2nd day of December, 1992.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

45

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET
DATE DEC 4 1992

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 THELMA J. BELL; SPOUSE OF)
 THELMA J. BELL; UNION MORTGAGE)
 COMPANY, INC.; COUNTY)
 TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
 Defendants.)

FILED

DEC - 2 1992

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
CLERK OF COURT

CIVIL ACTION NO. 92-C-894-C

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 2 day of Dec, 1992. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney; the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appear not, having previously disclaimed any right, title or interest in the subject property; the Defendant, Spouse of Thelma J. Bell, does not exist and should be dismissed from this action; and the Defendants, Thelma J. Bell and Union Mortgage Company, Inc., appear not, but make default.

The Court, being fully advised and having examined the court file, finds that the Defendant, Thelma J. Bell, acknowledged receipt of Summons and Complaint on October 5, 1992; that the Defendant, Union Mortgage Company, Inc., acknowledged receipt of Summons and Complaint on or about October 30, 1992; that Defendant, County Treasurer, Tulsa County, Oklahoma,

NOTE: THE COURT HAS REVIEWED THE
FILED AND RECORDED BY THE
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

acknowledged receipt of Summons and Complaint on October 7, 1992; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 6, 1992.

The Court further finds that Defendant, Spouse of Thelma J. Bell, has not been served herein as such person does not exist, and should therefore be dismissed as a Defendant herein.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on October 26, 1992; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on October 26, 1992; and that the Defendants, Thelma J. Bell and Union Mortgage Company, 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 Seven (7), Block Thirty-nine (39), VALLEY VIEW 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 February 1, 1974, the Defendant, Thelma J. Bell, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, her

mortgage note in the amount of \$10,500.00, payable in monthly installments, with interest thereon at the rate of 6 percent (6%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Thelma J. Bell, a single person, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated February 1, 1974, covering the above-described property. Said mortgage was recorded on February 4, 1974, in Book 4105, Page 1005, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Thelma J. Bell, 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, Thelma J. Bell, is indebted to the Plaintiff in the principal sum of \$6,543.20, plus interest at the rate of 6 percent per annum from November 1, 1991 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

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

The Court further finds that the Defendants, Thelma J. Bell and Union Mortgage Company, Inc., are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Thelma J. Bell, in the principal sum of \$6,543.20, plus interest at the rate of 6 percent per annum from November 1, 1991 until judgment, plus interest thereafter at the current legal rate of 3.76% percent per annum until paid, plus the costs of this action, 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, and the Defendant, Spouse of Thelma J. Bell, is hereby dismissed as a Defendant herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Thelma J. Bell, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or 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 judgment rendered herein
in favor of the Plaintiff;

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

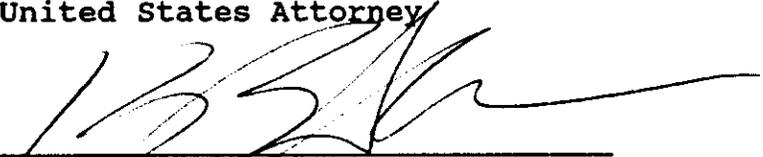
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from
and after the sale of the above-described real property, under
and by virtue of this judgment and decree, all of the Defendants
and all persons claiming under them since the filing of the
Complaint, be and they are forever barred and foreclosed of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

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 92-C-894-C

KBA/esr

DATE DEC 04 1992

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

FILED

DEC -2 1992

[Handwritten initials]

LONNIE WRIGHT RICHIE,)
)
 Plaintiff,)
)
 v.)
)
 STANLEY GLANZ, et al,)
)
 Defendants.)

CLERK OF COURT
NORTHERN DISTRICT OF OK

92-C-361-B

ORDER

Defendant filed a Motion To Dismiss on July 27, 1992. On October 20, 1992, the Magistrate granted Plaintiff an additional 20 days to respond, but warned that a second failure to respond would be considered a confession of the motion pursuant to Local Rule 15(A) of the Northern District of Oklahoma. As of November 30, 1992, Plaintiff has still not responded to the motion. Therefore, Defendant's Motion To Dismiss is GRANTED.

SO ORDERED THIS 2nd day of dec, 1992.

[Handwritten signature of Thomas R. Brett]

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

DEC

1 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MICHAEL BASCOM SELSOR,

Petitioner,

vs.

STEPHEN KAISER,

Respondent.

No. 91-C-826-E

ENTERED ON DOCKET

DATE DEC 4 1992

ORDER

COMES NOW BEFORE THE COURT FOR CONSIDERATION, the request of Michael Bascom Selsor (hereinafter "Selsor"), a pro se petitioner, for a Writ of Habeas Corpus on the grounds of ineffective assistance of counsel and violation of the double jeopardy clause.

I. Statement of the Case

On September 15th of 1975, Selsor and Richard Dodson ("Dodson") robbed a South Tulsa convenience store. In the course of the robbery, Dodson shot and seriously wounded one female store clerk, and Selsor shot and killed the male night manager. Selsor and Dodson fled the scene and were later arrested in Santa Barbara, California. After proper "Miranda" warnings, Selsor and Dodson were interrogated separately by the Santa Barbara Police Department. Both confessed to the robbery and shootings.¹

A consolidated trial was held, despite the efforts of defense

¹ After an evidentiary hearing, the trial court found both confessions to be voluntary and admissible at trial. Id. at 268.

counsel to obtain a severance and independent counsel.² Selsor plead not guilty. Dodson plead not guilty by reason of insanity. On January 23rd of 1976, Selsor was convicted of First Degree Murder, Shooting with Intent to Kill, and Robbery with Firearms. Dodson was convicted only of the underlying felonies. Selsor is currently serving a life term,³ a twenty year term, and a twenty-five year term for each of the offenses above, respectively.

On April 6, 1977, the Court of Criminal Appeals affirmed the conviction of Petitioner for shooting with intent to kill and robbery with firearms, but modified the death sentence for first degree murder to life imprisonment. See Selsor v. State, 562 P.2d 926 (Okla.Cr.1977). Petitioner did not raise the issue of double jeopardy on direct appeal. On November 8, 1978, Petitioner filed a request for post-conviction relief in the District Court of Tulsa County, raising only the issue of ineffective assistance of counsel. The Oklahoma Court of Criminal Appeals upheld the District Court's denial of post-conviction relief.

On July 3, 1989, Petitioner filed a second request for post-conviction relief in the District Court of Tulsa County which was

² At the beginning of the trial, Counsel for Selsor and Dodson stated for the record that a motion had been filed and denied for severance of the trials and appointment of separate counsel. Counsel again urged his motion before the trial judge, but Prosecution asserted that Defendant's Counsel was simply trying to make a record for appeal. The trial judge, giving deference to the magistrate judge who had already considered and denied the motion, again denied it but noted Counsel's exception.

³ Selsor's death sentence was reduced to life imprisonment by the Criminal Appeals Court in Selsor v. State, 562 P.2d 926 (Okla. Crim.App. 1977).

denied by the District Court on the ground that the issue of double jeopardy had not been raised by Petitioner in either his direct appeal or his first request for post-conviction relief. Selsor v. State, No. PC-80-187 (Okla.Crim.App. June 11, 1980). The Court of Criminal Appeals upheld the District Court's finding and held that all issues which were ruled upon in Selsor v. State, 562 P.2d 926 (Okla.Crim.App. 1977) were barred from further consideration under the doctrine of res judicata, and all issues which could have been raised therein, but were not, were waived. Selsor v. State, No. PC-89-766 (Okla.Crim.App. August 18, 1989).

Petitioner now turns to this Court for issuance of a Writ of Habeas Corpus.⁴

II. Discussion of the Law

A. Ineffective Assistance of Counsel

Petitioner's first claim for relief is based on the Sixth Amendment Right of an accused to effective assistance of counsel, that is to a defense counsel whose undivided loyalties lie with his/her accused client. Glasser v. United States, 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed. 680 (1942). Petitioner bases his claim on the fact that one counsel represented two co-defendants with conflicting interests in a consolidated trial.

Where a defendant's claim is predicated on multiple representation giving rise to a conflict of interest, the United States Supreme Court has made it clear that defendant need only

⁴ See Petitioner's Motion with Supplemental Brief (docket #9).

establish "a conflict of interest actually affected the adequacy of his representation". See Cuyler v. Sullivan, supra., 446 U.S. 335, 351, 100 S.Ct. 1708, 1719, 64 L.Ed.2d 333 (1980)(citations omitted). Relief may then be granted without further proof of prejudice. Id. 315 U.S. at 72-75, 62 S.Ct. at 465-467(citations omitted).

Selsor has failed in his burden of showing that defense counsel's multiple representation of co-defendants Dodson and Selsor "actually affected" the adequacy of the representation of Selsor. In this case, Selsor's plea of "not guilty" and Dodson's plea of "not guilty by reason of insanity" did not create a conflict for defense counsel.

Both defendants exercised their right to not testify, both defendants voluntarily⁵ confessed and the trial judge admitted the confessions into evidence. Defense counsel only called one witness, a medical expert, on the issue of insanity. The medical expert testified that he could give no opinion as to the mental state of the defendant Dodson at the time of the commission of the crime.⁶ At the end of this failed proof of insanity, defense

⁵ An evidentiary hearing was held by the trial judge outside of the jury's presence on the issue of whether each confession was voluntary. In reviewing the record, the trial judge did not abuse his discretion in finding that both confessions were voluntary.

⁶ The expert indicated that Dodson had mentioned using a combination of alcoholic beverages and a "gob" of speed in and around September 15th. See Trial Transcript at 385. However, the expert stated he had no opinion as to whether Dodson's use of drugs had raised him to a psychotic level on the night of the commission of the crime because the expert had not had the opportunity to examine him at that time.

rested.

Looking at the totality of the evidence submitted on behalf of the defendant^s, the Court finds that defense counsel was not required to establish the absence of Selsor from the scene of the crime while acknowledging the presence of Dodson. Thus, the Court finds that the multiple representation did not "actually affect" the representation of Selsor.

B. Double Jeopardy

Petitioner next seeks habeas corpus relief on the grounds that he was placed in double jeopardy. Oklahoma law is clear on this point: where felony-murder is the only theory of murder charged, the accused cannot be punished for both the felony-murder and the underlying felony. Castro v. State, 745 P.2d 394, 405 (Okla.Crim.App. 1987); Jones v. State, 742 P.2d 1142, 1149 (Okla.Crim.App. 1987).

Based on the record, the Court finds that Petitioner was placed in double jeopardy. However, the issue presented is not whether the rule against double jeopardy was violated, but instead is whether Petitioner exhausted his state remedies with respect to double jeopardy. Throughout Petitioner's post-conviction appeals, the issue of double jeopardy has never been raised.

The United States Supreme Court, in Coleman v. Thompson, __ U.S. __, 111 S.Ct. 2546 (1991), addressed the effect of state procedural default on federal habeas review. The Court clearly stated the applicable standard:

In all cases in which a state prisoner has defaulted his federal claims in state court pursuant to an independent and

adequate state procedural rule, federal habeas review of the claims is barred unless the prisoner can demonstrate cause for the default and actual prejudice as a result of the alleged violation of federal law, or demonstrate that failure to consider the claims will result in a fundamental miscarriage of justice.

There is no reason that the same standard should not apply to a failure to appeal at all. All of the State's interests--in channeling the resolution of claims to the most appropriate forum, in finality, and in having an opportunity to correct its own errors--are implicated whether a prisoner defaults one claim or all of them.

Id. 111 S.Ct. at 2565; see also Murray v. Carrier, 477 U.S. 478, 106 S.Ct. 2639, 91 L.Ed.2d 397 (1986).

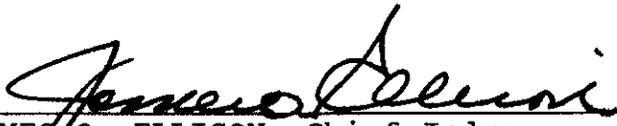
Petitioner has utterly failed to establish "cause" for his failure to raise the double jeopardy issue on appeal. Moreover, failure of this Court to consider the double jeopardy claim will not result in a "fundamental miscarriage of justice":

Cases involving a fundamental miscarriage of justice' are extraordinary instances when a constitutional violation probably has caused the conviction of one innocent of the crime.' McClesky v. Zant, 111 S.Ct. 1470, 1475; Murray v. Carrier, 477 U.S. at 496, 106 S.Ct. at 2649-50.

Gilbert v. Scott, 941 F.2d 1065, 1068 at n.2 (10th Cir. 1991).

IT IS THEREFORE ORDERED that Michael Bascom Selsor's Petition requesting issuance of a Writ of Habeas Corpus is denied.

ORDERED this 30th day of November, 1992.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

DATE 12/4/92

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

FILED

DEC 1 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

T. D. WILLIAMSON, INC., an)
Oklahoma corporation,)
)
Plaintiff,)
)
v.)
)
STOREBRAND INSURANCE COMPANY,)
(U.K.) LTD.,)
)
Defendant.)

Case No. 92-C-390-B

ORDER OF DISMISSAL WITH PREJUDICE

The Court has before it for consideration the stipulation of the parties for dismissal with prejudice of this case and finds that the case should be and is hereby dismissed with prejudice with each party to bear its own costs and attorney fees.

Dated this 1st day of Dec., 1992.

S/ THOMAS R. BRETT.

Hon. Thomas R. Brett, UNITED STATES DISTRICT COURT JUDGE

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

FILED

DEC 4 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

MASSEY GAS SYSTEMS, a Tennessee)
General Partnership,)
)
Plaintiff,)
)
v.)
)
NORMANDY OIL AND GAS COMPANY,)
INC., a New York corporation;)
)
NORMANDY GATHERING AND)
PROCESSING CORPORATION, a)
)
Delaware corporation; NORTHEAST)
UTAH GAS CORP., a Texas)
)
corporation, d/b/a NEU Gas Corp.;)
)
- and -)
)
M.G.M. ENERGY CORP., an)
)
Oklahoma corporation,)
)
)
Defendants.)

Case No. 92-C-162-E

ENTERED ON DOCKET
DATE DEC 4 1992

JOURNAL ENTRY OF JUDGMENT
AND DECREE OF FORECLOSURE

This matter comes before the Court on the Joint Motion of Plaintiff Massey Gas Systems and Defendants Normandy Oil and Gas Company, Inc., Normandy Gathering and Processing Corporation, and Northeast Utah Gas Corp., d/b/a NEU Gas Corp., for Entry of Judgment and Decree of Foreclosure (the "Joint Motion"). Plaintiff Massey Gas Systems is present and represented by Christopher S. Heroux and Kevin M. Pybas of Holliman, Langholz, Runnels & Dorwart. Defendants Normandy Oil and Gas Company, Normandy Gathering and Processing Corporation and Northeast Utah Gas Corp., d/b/a NEU Gas Corp., are present and represented by Terry M. Thomas and James H. Ferris of Moyers, Martin, Santee, Imel & Tetrick. The Court, having reviewed the file and being fully advised in the premises, finds that the Joint Motion should be, and the same is hereby,

granted. The Court makes the following findings in support of its ruling:

1. Defendants Normandy Oil and Gas Company ("NOGC"), Normandy Gathering and Processing Corporation ("NGPC"), and Northeast Utah Gas Corp., d/b/a NEU Gas Corp. ("NEU") (NOGC, NGPC and NEU being sometimes collectively referred to herein as the "Normandy Companies") have admitted all material allegations in Massey's Complaint, and the Normandy Companies are jointly and severally indebted to plaintiff Massey Gas Systems ("Massey") for the sum of Two Million Six Hundred Thousand Dollars (\$2,600,000.00), representing principal, accrued but unpaid interest, together with costs of court and attorney fees through and including the date of this Decree of Foreclosure and Order of Sale. Said indebtedness is secured by various Mortgages, Security Agreements and Financing Statements in favor of Massey covering certain real and personal property, to-wit:

A. Mortgage, Security Agreement, Financing Statement and Assignment (the "Markham Mortgage") dated June 30, 1989, executed by NOGC in favor of Massey, and duly filed of record in the office of the County Clerk of Creek County, Oklahoma, on July 21, 1989, in Book 251, Pages 895-919, and in the office of the County Clerk of Payne County, Oklahoma, on July 24, 1989, in Book 909, Pages 859-883.

B. Financing Statement covering the collateral set forth in the Markham Mortgage, executed by NOGC in favor of Massey, and duly filed of record in the office of the County Clerk of Oklahoma County, Oklahoma, on July 10, 1989, under Clerk's File No. 3065.

C. Mortgage Modification Agreement (the "Markham Modification Agreement), dated effective as of December 31, 1990, executed by NOGC in favor of Massey, and duly filed of record in the office of the County Clerk of Creek County, Oklahoma, on June 6, 1991, in Book 277 at Pages 1435-1447, and

in the office of the County Clerk of Payne County, Oklahoma, on July 17, 1991, in Book 957 at Pages 636-648.

D. Mortgage, Security Agreement, Financing Statement and Assignment (the "Red Bird Mortgage") dated July 7, 1989, executed by NOGC in favor of Massey, and duly filed of record in the office of the County Clerk of Wagoner County, Oklahoma, on August 2, 1989, in Book 761 at Pages 808-828.

E. Financing Statement covering the collateral set forth in the Red Bird Mortgage, executed by NOGC in favor of Massey, and duly filed of record in the office of the County Clerk of Oklahoma County, Oklahoma, on August 1, 1989, under Clerk's File No. 3440, and in the office of the County Clerk of Wagoner County, Oklahoma, on August 2, 1989, under Clerk's File No. 1112.

F. Mortgage Modification Agreement (the "Red Bird Modification Agreement"), dated effective December 31, 1990, executed by NOGC in favor of Massey, and duly filed of record in the office of the County Clerk of Wagoner County, Oklahoma, on June 4, 1991, in Book 793 at Pages 421-434.

G. Real Estate Mortgage (the "MGM Mortgage") dated effective December 31, 1990, executed by NGPC in favor of Massey, and duly filed of record in the office of the County Clerk of Tulsa County, Oklahoma, on June 3, 1991, in Book 5325 at Pages 1335-1342.

H. Security Agreement and Financing Statement (the "MGM Security Agreement") dated effective December 31, 1990, executed by NGPC in favor of Massey, and duly filed in the records of the County Clerk of Oklahoma County, Oklahoma, on June 4, 1991, under Clerk's File No. 027654, and in the office of the County Clerk of Tulsa County, Oklahoma, in Book 5325 at Pages 1343-1355 and under Clerk's File No. 619825.

2. The Mortgages, Security Agreements and Financing Statements described above create first priority liens in favor of Massey, which liens attached to the following real and personal property situated in Creek County, Payne County, Wagoner County and Tulsa County, Oklahoma (the "Property"):

A. Markham Gas Gathering System, Payne County and Creek County, Oklahoma.

(i) Real Property.

All of the Normandy Companies' right, title and interest in and to the real estate rights-of-way, easements, leases and lands used or useful or held for use in connection with the operation of a natural gas transportation pipeline and natural gas processing plant owned and operated by NOGC, or any of the Normandy Companies, as the Markham Gas Gathering System located in Creek County and Payne County, Oklahoma, including but not limited to the following:

(1) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the South M or L side of the East Half of the Southwest Quarter and of the Southeast Quarter of Section 2, Township 18 North, Range 6 East in Payne County, Oklahoma, from Frank Hajducek to Parks Energy Investments, dated the 16th day of September, 1981 and recorded in Book 571, Page 296 of the records of Payne County, Oklahoma.

(2) Right of Way Grant or Easement 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the SW side of Section 2, Township 18 North, Range 6 East in Payne County, Oklahoma, from Paul W. Robinson and Leta Mae Robinson to Parks Energy Investments, dated the 28th day of September, 1981 and Recorded in Book 571, Page 319 of the records of Payne County, Oklahoma.

(3) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the North side of the East Half of the Northwest Quarter and the West Half of the Northeast Quarter of Section 2, Township 18 North, Range 6 East in Payne County, Oklahoma, from Frank Hajducek to Parks Energy Investments, dated the 18th day of September, 1981 and recorded in Book 571, Page 297 of the records of Payne County, Oklahoma.

(4) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East and North sides of the Northeast Quarter of Section 2, Township 18 North, Range 6 East in Payne County, Oklahoma, from Richard and Margaret Shumaker to Parks Energy Investments, dated the 3rd day of September, 1981 and recorded in Book 571, Page 304 of the records of Payne County, Oklahoma.

(5) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the North side of the West Half of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 2, Township 18 North, Range 6 East in Payne County, Oklahoma, from William C. and Cecilla T. Bedingfield to Parks Energy Investments, dated the 26th day of August, 1981 and recorded in Book 571, Page 308 of the records of Payne County, Oklahoma.

(6) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the West Half (less a tract being one acre square in the Southeast corner of the Northwest Quarter) of Section 3, Township 18 North, Range 6 East in Payne County, Oklahoma, from Helen Thompson to Parks Energy Investments, dated the 7th day of July, 1981 and recorded in Book 571, Page 318 of Payne County, Oklahoma.

(7) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the Northwest Quarter of Section 10, Township 18 North, Range 8 East in Payne County, Oklahoma, from Bruce Fine and Nellie Fine to Parks Energy Investments, dated the 8th day of August, 1981 and recorded in Book 571, Page 313 of Payne County, Oklahoma.

(8) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the North Half of the Southwest Quarter of Section 10, Township 18 North, Range 6 East in Payne County, Oklahoma, from Clyde C. Humble and Barbara J. Humble to Parks Energy Investments, dated the 17th day of July, 1981 and recorded in Book 571, Page 318 of the records of Payne County, Oklahoma.

(9) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the South Half of the Southwest Quarter of Section 10, Township 18 North, Range 6 East in Payne County, Oklahoma, from Claude A. Lewis to Parks Energy Investments, dated the 29th day of June, 1981 and recorded in Book 571, Page 314 of the records of Payne County, Oklahoma.

(10) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East and West sides of the North Half of Section 10, Township 18 North, Range 6 East in Payne County, Oklahoma, from Bruce Fine and Nellie E. Fine to Parks Energy Investments, dated the 8th day of September,

1981 and recorded in Book 571, Page 315 of the records of Payne County, Oklahoma.

(11) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the Northeast Quarter of the Northwest Quarter of Section 15, Township 18 North, Range 6 East in Payne County, Oklahoma, from Ferlan K. Dean and Yvonne E. Dean to Parks Energy Investments, dated the 29th day of June, 1981 and recorded in Book 571, Page 301 of the records of Payne County, Oklahoma.

(12) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the Southeast Quarter of the Northwest Quarter and the East Half of the Southwest Quarter of Section 15, Township 18 North, Range 6 East in Payne County, Oklahoma, from William A. Lewis and Kay A. Lewis to Parks Energy Investments, dated the 29th day of June, 1981 and recorded in Book 571, Page 303 of the records of Payne County, Oklahoma.

(13) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the Northwest Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Thomas E. Barrows to Parks Energy Investments, dated the 29th day of June, 1981 and recorded in Book 571, Page 300 of the records of Payne County, Oklahoma.

(14) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the North side of the Northwest Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Thomas E. Barrows to Parks Energy Investments, dated the 28th day of August, 1981 and recorded in Book 571, Page 309 of the records of Payne County, Oklahoma.

(15) Right of Way Grant or Easement of 30 feet, to lay, maintain and operate a pipeline, on, over, through or along the South side of the property (said 30-foot easement to follow existing lease road along South Border of property) in Section 22, Township 19 North, Range 6 East in Payne County, Oklahoma, from Edith M. Moser to Parks Energy Investments, dated the 2nd day of October, 1981 and recorded in Book 571, Page 298 of the records of Payne County, Oklahoma.

(16) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or

along the East side of the North Half of the Southwest Quarter of Section 27, Township 19 North, Range 6 East in Payne County, Oklahoma, from Charles J. Dennis to Parks Energy Investments, dated the 27th day of August, 1981 and recorded in Book 571, Page 299 of the records of Payne County, Oklahoma.

(17) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the South Half of the Southwest Quarter of Section 27, Township 19 North, Range 6 East in Payne County, Oklahoma, from Mittie B. Elliott to Parks Energy Investments, dated the 30th day of September, 1981 and recorded in Book 571, Page 317 of the records of Payne County, Oklahoma.

(18) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the West side of the Northeast Quarter and of the Northeast Quarter of the Northwest Quarter of Section 27, Township 19 North, Range 6 East in Payne County, Oklahoma, from Gayle Standefer and Joananna Standefer to Parks Energy Investments, dated the 25th day of August, 1981 and recorded in Book 571, Page 312 of the records of Payne County, Oklahoma.

(19) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the South Half of the South Half of the Northwest Quarter of Section 34, Township 19 North, Range 6 East in Payne County, Oklahoma, from Edward Dennis and Irene Dennis to Parks Energy Investments, dated the 29th day of June, 1981 and recorded in Book 571, Page 311 of the records of Payne County, Oklahoma.

(20) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the South side of the Southeast Quarter of Section 34, Township 19 North, Range 6 East in Payne County, Oklahoma, from Ethel G. Stoops to Parks Energy Investments, dated the 3rd day of September, 1981 and recorded in Book 571, Page 310 of the records of Payne County, Oklahoma.

(21) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the Southwest Quarter of Section 34, Township 19 North, Range 6 East in Payne County, Oklahoma, from Ferlan K. Dean and Yvonne E. Dean to Parks Energy Investments, dated the 29th day of June, 1981 and

recorded in Book 571, Page 302 of the records of Payne County, Oklahoma.

(22) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of Section 34, Township 19 North, Range 6 East in Payne County, Oklahoma, from Danny B. Moore and Susan R. Moore to Parks Energy Investments, dated the 17th day of August, 1981 and recorded in Book 571, Page 320 of the records of Payne County, Oklahoma.

(23) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the East side of the North Half of the South Half of the Northwest Quarter of Section 34, Township 19 North, Range 6 East in Payne County, Oklahoma, from Edward Dennis for Emily Harris to Parks Energy Investments, dated the 29th day of June, 1981 and recorded in Book 571, Page 305 of the records of Payne County, Oklahoma.

(24) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the North side of the Northeast Quarter of Section 35, Township 19 North, Range 6 East in Payne County, Oklahoma, from William C. Bedingfield and Cecilla T. Bedingfield to Parks Energy Investments, dated the 26th day of August, 1981 and recorded in Book 571, Page 306 of the records of Payne County, Oklahoma.

(25) Right of Way Grant or Easement of 50 feet, to lay, maintain and operate a pipeline, on, over, through or along the North side of Lots 1 and 2 of the Northwest Quarter and Lots 3 and 4 of the Southwest Quarter of Section 36, Township 19 North, Range 6 East in Payne County, Oklahoma, from William C. Bedingfield and Cecilla T. Bedingfield to Parks Energy Investments, dated the 26th day of August, 1981 and recorded in Book 571, Page 307 of the records of Payne County, Oklahoma.

(26) Permit No. 6823TP dated August 14, 1981 from the Commissioners of the Land Office of the State of Oklahoma, in, through and across the N/2 and SE/4 of Section 16, Township 18 North, Range 6 East in Payne County, Oklahoma, recorded in Book 571, Page 321 of the records of Payne County, Oklahoma.

(27) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Nellie Culp to Parks Energy Investments, dated the 20th day of July,

1981 and recorded in Book 567, Page 586 of the records of Payne County, Oklahoma.

(28) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Nellie Culp to Parks Energy Investments, dated the 21st day of July, 1981 and recorded in Book 567, Page 587 of the records of Payne County, Oklahoma.

(29) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along one acre, more or less, of the Southwest Quarter, of Section 15, Township 18 North, Range 6 East in Payne County, Oklahoma, from William A. Lewis and Kay A. Lewis to Parks Energy Investments, dated the 7th day of July, 1981 and recorded in Book 577, Page 126 of the records of Payne County, Oklahoma.

(30) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Northeast Quarter of Section 2, Township 19 North, Range 6 East in Payne County, Oklahoma, from Richard Shumaker and Margaret Shumaker to Parks Energy Investments, dated the 28th day of August, 1981 and recorded in Book 577, Page 128 of the records of Payne County, Oklahoma.

(31) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Northeast Quarter of Section 2, Township 18 North, Range 6 East in Payne County, Oklahoma, from Margie Shumaker Botts to Parks Energy Investments, dated the 8th day of September, 1981 and recorded in Book 577, Page 129 of the records of Payne County, Oklahoma.

(32) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Nellie Culp to Parks Energy Investments, dated the 16th day of November, 1981 and recorded in Book 577, Page 130 of the records of Payne County, Oklahoma.

(33) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of Section 21, Township 18 North, Range 6 East in Payne County, Oklahoma, from Kenneth Phillips and Margaret A. Phillips to Parks Energy Investments,

dated the 30th day of October, 1981 and recorded in Book 577, Page 131 of the records of Payne County, Oklahoma.

(34) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Theodore J. Nishimuta and Connie J. Nishimuta to Parks Energy Investments, dated the 19th day of October, 1981 and recorded in Book 577, Page 132 of the records of Payne County, Oklahoma.

(35) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of Section 3, Township 18 North, Range 6 East in Payne County, Oklahoma, from Ferlan K. Dean to Parks Energy Investments, dated the 20th day of October, 1981 and recorded in Book 577, Page 133 of the records of Payne County, Oklahoma.

(36) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the East side of Section 34, Township 19 North, Range 6 East in Payne County, Oklahoma, from Ferlan K. Dean to Parks Energy Investments, dated the 20th day of October, 1981 and recorded in Book 577, Page 134 of the records of Payne County, Oklahoma.

(37) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the East Half of the Southeast Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Carl W. Bishop to Parks Energy Investments, dated the 13th day of November, 1981 and recorded in Book 577, Page 135 of the records of Payne County, Oklahoma.

(38) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Jerry Nishimuta and Claudette Nishimuta to Parks Energy Investments, dated the 31st day of October, 1981 and recorded in Book 577, Page 136 of the records of Payne County, Oklahoma.

(39) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of the Southeast Quarter of Section 3, Township 18 North, Range 6 East in Payne County, Oklahoma, from W.J. Moore to Parks Energy Investments, dated the 18th day of November, 1981 and recorded in Book 577, Page 137 of the records of Payne County, Oklahoma.

(40) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Tom Davenport to Parks Energy Investments, dated the 28th day of October, 1981 and recorded in Book 577, Page 138 of the records of Payne County, Oklahoma.

(41) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of Section 23, Township 18 North, Range 6 East in Payne County, Oklahoma, from Tom Davenport to Parks Energy Investments, dated the 28th day of October, 1981 and recorded in Book 577, Page 139 of the records of Payne County, Oklahoma.

(42) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of Section 21, Township 18 North, Range 6 East in Payne County, Oklahoma, from Mrs. Billy G. Leith to Parks Energy Investments, dated the 14th day of October, 1981 and recorded in Book 577, Page 140 of the records of Payne County, Oklahoma.

(43) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of Section 20, Township 18 North, Range 6 East in Payne County, Oklahoma, from Mrs. James M. Deay and Mrs. Lloyd A. Johnston to Parks Energy Investments, dated the 27th day of February, 1982 and recorded in Book 588, Page 404 of the records of Payne County, Oklahoma.

(44) Right of Way Grant or Easement of 50 feet, as more fully described in Instrument, to lay, maintain and operate a pipeline on, over, through or along, Section 22, Township 18 North, Range 6 East in Payne County, Oklahoma, from Nellie Culp to Parks Energy Investments, Inc. dated the 22nd day of February, 1982 and recorded in Book 588, Page 406 of the records of Payne County, Oklahoma.

(45) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of Section 20, Township 18 North, Range 6 East in Payne County, Oklahoma, from Lee Roy Carr to Parks Energy Investments, dated the 9th day of March, 1982 and recorded in Book 588, Page 407 of the records of Payne County, Oklahoma.

(46) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Southwest Quarter of Section 2,

Township 18 North, Range 6 East in Payne County, Oklahoma, from Paul W. Robison and Leta Mae Robison to Parks Energy Investments, dated the 3rd day of May, 1982 and recorded in Book 591, Page 314 of the records of Payne County, Oklahoma.

(47) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Side of the Southwest Quarter of Section 9, Township 18 North, Range 6 East in Payne County, Oklahoma, from Homer Hixson to Parks Energy Investments, Inc., dated the 14th day of May, 1982 and recorded in Book 591, Page 315 of the records of Payne County, Oklahoma and re-recorded in Book 592, Page 1003 of the records of Payne County, Oklahoma

(48) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Side of the Southeast Quarter of Section 8, Township 18 North, Range 6 East in Payne County, Oklahoma, from Guardianship of Floyd Isbell by Dan Isbell Guardian to Parks Energy Investments, dated the 10th day of December, 1982 and recorded in Book 605, Page 483 of the records of Payne County, Oklahoma.

(49) Right of Way Grant or Easement, of 50 feet more fully described in Instrument to lay, maintain and operate a pipeline on, over, through or along Section 2, Township 18 North, Range 6 East in Payne County, Oklahoma, from Frank Hajducek to Parks Energy Investments, dated the 20th day of December, 1982 and recorded in Book 605, Page 980 of the records of Payne County, Oklahoma.

(50) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half and the Southeast Quarter of Section 16, Township 18 North, Range 6 East in Payne County, Oklahoma, from State of Oklahoma to Parks Energy Investments, dated the 15th day of February, 1983 and recorded in Book 609, Page 844 of the records of Payne County, Oklahoma.

(51) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Township 27 North, Range 7 East in Creek County, Oklahoma, from Kenneth Brashears to Circus Oil Company, dated the 5th day of March, 1984.

(52) Right of Way Grant or Easement, more fully described in Instrument, Section 20, Township 19 North, Range 7 East in Creek County, Oklahoma, from Edd Burk and Nell

Burk to Parks Energy Investments, Inc. dated the 17th day of November, 1982.

(53) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Lot 5 of Section 36, Township 19 North, Range 6 East in Creek County, Oklahoma, from Gene C. Quier & Betty Quier, and recorded in Book 107, Page 1406 of the records of Creek County, Oklahoma.

(54) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along North Half of the Northwest Quarter of Section 31 Township 19 North, Range 7 East in Creek County, Oklahoma, from Anna E. Quier, and recorded in Book 107, Page 1407 of the records of Creek County, Oklahoma.

(55) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southeast Quarter of the Southwest Quarter of Section 30, Township 19 North, Range 7 East in Creek County, Oklahoma, from Gene C. Quier & Betty Quier, and recorded in Book 107, Page 1405 of the records of Creek County, Oklahoma.

(56) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southeast Quarter of Section 30, Township 19 North, Range 7 East in Creek County, Oklahoma, from Gene C. Quier, and recorded in Book 119, Page 2034 of the records of Creek County, Oklahoma.

(57) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southeast Quarter of Section 29, Township 19 North, Range 7 East in Creek County, Oklahoma, from Gene Doll, and recorded in Book 119, Page 2035 and Book 120, Page 791 of the records of Creek County, Oklahoma.

(58) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Northwest Quarter of Section 29, Township 19 North, Range 7 East in Creek County, Oklahoma, from Mrs. James Landrum, and recorded in Book 119, Page 2036 and Book 120, Page 792 of the records of Creek County, Oklahoma.

(59) Right-of-way or Easement of 50 feet for a 6 inch pipeline running from Quier #A-2 tank battery to the Cimarron River, a distance of 1820 feet, Section 31, Township 19 North, Range 7 East in Creek County, Oklahoma, from Betty Quier, and recorded in Book 124, Page 473 of the records of Creek County, Oklahoma.

(60) Right-of-way or Easement of 50 feet from Guest Well #1 to installed pipeline running through Northeast Quarter of Section 31, Township 19 North, Range 7 East in Creek County, Oklahoma, from Robert E. Guest, and recorded in Book 124, Page 1509 of the records of Creek County, Oklahoma.

(61) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southeast Quarter of Section 31, Township 19 North, Range 7 East in Creek County, Oklahoma, from B.G. Harvill, and recorded in Book 124, Page 474 of the records of Creek County, Oklahoma.

(62) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southwest Quarter of the Northwest Quarter of Section 21, Township 19 North, Range 7 East in Creek County, Oklahoma, from Robert H. Beavers and recorded in Book 126, Page 642 of the records of Creek County, Oklahoma.

(63) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Northwest Quarter of the Southwest Quarter of Section 21, Township 19 North, Range 7 East in Creek County, Oklahoma, from V.H. Camp and recorded in Book 126, Page 643 of the records of Creek County, Oklahoma.

(64) Right-of-Way Grant or Easement of 50 feet for 6 inch gas line to Marrs Drilling Co. Well in Sections 31 and 6, Townships 19 North and 18 North, Range 7 East in Creek County, Oklahoma, from B.G. Harvill and recorded in Book 126, Page 644 of the records of Creek County, Oklahoma.

(65) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Northeast Quarter of the Northwest Quarter of Section 21, Township 19 North, Range 7 East in Creek County, Oklahoma, from Gene Adams, and recorded in Book 126, Page 1608 of the records of Creek County, Oklahoma.

(66) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, from Doll #1 Well to 6 inch gas collection manifold located 5280' due South of the Doll #1 Well, in Section 30, Township 19 North, Range 7 East in Creek County, Oklahoma, from Gene Doll, and recorded in Book 126, Page 1930 of the records of Creek County, Oklahoma.

(67) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along South Half of the Southwest Quarter of Section 21, Township 19

North, Range 7 East in Creek County, Oklahoma, from L.R. Jones, and recorded in Book 128, Page 980 of the records of Creek County, Oklahoma.

(68) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Northwest Quarter of Section 29, Township 19 North, Range 7 East in Creek County, Oklahoma, from Gene Doll, and recorded in Book 128, Page 2321 of the records of Creek County, Oklahoma.

(69) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southeast Quarter of Section 30, Township 19 North, Range 7 East in Creek County, Oklahoma, from Mrs. Gene C. Quier, and recorded in Book 143, Page 1390 of the records of Creek County, Oklahoma.

(70) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southeast Quarter of the Southwest Quarter of Section 21, Township 19 North, Range 7 East in Creek County, Oklahoma, from V.H. Camp, and recorded in Book 161, Page 1076 of the records of Creek County, Oklahoma.

(71) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along South Half of the Southwest Quarter of Section 21, Township 19 North, Range 7 East in Creek County, Oklahoma, from Kenneth Brashears, and recorded in Book 163, Page 790 of the records of Creek County, Oklahoma.

(72) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Section 19, Township 27 North, Range 7 East in Creek County, Oklahoma, from Kenneth Brashears.

(ii) Personal Property, Fixtures and Equipment.

All of the Normandy Companies' right, title and interest in and to all natural gas processing plants, pipelines in place, personal property, fixtures, compressor sites, improvements, easements, licenses and servitudes situated upon or used or useful or held for use in connections with the operation of a natural gas transportation pipeline and natural gas processing plant owned and operated by NOGC, or any of the Normandy Companies, as the Markham Gas Gathering System located in Creek County and Payne County, Oklahoma, including but limited to those items described below, and all other pipe, meters,

measurement equipment, tanks, valves, meter houses and meter runs required for use in connection with the Markham Gas Gathering System, including but not limited to the following:

- (1) Two (2) new Electric Motor driven rotary Compressors
- (2) Two (2) new Caterpillar/Knight Gas Engine Compressor Packages
- (3) One (1) new Process Equipment Corp. Model GRU-4 Packaged Gas Process Plant
- (4) One (1) used Trinity Industry 30,000 Gallon 250 PSIG Storage Tank
- (5) Inlet Meter Station with new 6" Daniel 150 ASA Senior Meter Tube
- (6) New Pump, Valves and Fittings
- (7) New eighteen miles of eight, six, and four inch buried gathering system and appurtenances
- (8) Thirty-five (35) New Gas Meters, American Positive Displacement Aluminum Case
- (9) Two (2) New Ford F-150, Wide Bed Pick-Ups

(iii) Intangible Personal Property.

All of the Normandy Companies' right, title and interest under and by virtue of (including the right to receive payments) all contracts or agreements relating to or pertaining to the sale, purchase, treating or processing of hydrocarbons related to the Markham Gas Gathering System located in Creek County and Payne County, Oklahoma, entered into by NOGC or any of the Normandy Companies, or in which NOGC or any of the Normandy Companies has acquired an interest, including but not limited to the contracts and agreements set forth below; and all present and future accounts receivable relating to the operation of the Markham Gas Gathering System, including but not limited to all open account receivables and all account receivables arising under or pursuant to any joint operating agreements, agreements, contracts, or divisions orders, any and all accounts, contract rights, instruments, documents, general intangibles, and chattel

paper arising from or by virtue of any transactions relating to the Markham Gas Gathering System:

- (1) Gas Purchase Contract dated September 21, 1981, from Black River International, Inc., as Seller, covering the NW/4, NW/4, Sec. 22, T18N, R6E, Payne County, Oklahoma.
- (2) Gas Purchase Contract dated May 21, 1981, from Great Southwestern Exploration, Inc., as Seller.
- (3) Gas Purchase Contract dated June 25, 1981, from Minkle Engineering, Inc., as Seller.
- (4) Gas Purchase Contract dated May 5, 1981, from Raymond Jones Oil Producer, as Seller, covering the SE/4 of SW/4 of Sec. 35, T19N, R6E, Payne County, Oklahoma.
- (5) Gas Purchase Contract dated November 25, 1981, from Lion Petroleum Company, as Seller, covering the NE/4 of NE/4 of Sec. 17, T18N, R6E, Payne County, Oklahoma.
- (6) Gas Purchase Contract dated September 27, 1982, from Marrs Brothers Oil Company, as Seller, covering the NE/4 SW/4 NE/4 of Sec. 6, T18N, R7E, Creek County, Oklahoma.
- (7) Gas Purchase Contract dated February 28, 1983, from Okla. Oil, Inc., as Seller, covering the NE/4 of SE/4 of Sec. 22, T18N, R6E, Payne County, Oklahoma.
- (8) Gas Purchase Contract dated July 20, 1982, from Oklahoma Crude Exploration Corp., as Seller.
- (9) Gas Purchase Contract dated July 9, 1981, from Oklahoma Petroleum Management Corp., as Seller.
- (10) Gas Purchase Contract dated November 11, 1982, from Petrex Corp., as Seller, covering the NW/4 NE/4 of Sec. 2, T18N, R6E, Payne County, Oklahoma, and the SW/4 NE/4 of Sec. 2, T18N, R6E, Payne County, Oklahoma.
- (11) Gas Purchase Contract dated November 6, 1981, from William C. Pratt, as Seller, covering the NE/4 of NW/4 of Sec. 2, T18N, R6E, Payne County, Oklahoma, and the NW/4 of Sec. 35, T19N, R6E, Payne County, Oklahoma.

- (12) Gas Purchase Contract dated January 26, 1982, from Stillwater Oil Partners, as Seller, covering the SE/4 SE/4 NE/4 of Sec. 20, T18N, R6E, Payne County, Oklahoma, and the SW/4 SW/4 NW/4 of Sec. 21, T18N, R6E, Payne County, Oklahoma.
- (13) Gas Purchase Contract dated January 26, 1981, from Payne Energy Partners, Ltd., as Seller, covering the SE/4 SE/4 NE/4 of Sec. 20, T18N, R6E, Payne County, Oklahoma, and the SW/4 SW/4 NW/4 of Sec. 21, T18N, R6E, Payne County, Oklahoma.
- (14) Gas Purchase Contract dated January 12, 1983, from Ruth Guest and Vonnie King d/b/a R & V Investments, as Seller, covering the S/2 NE/4 of Sec. 3, T18N, R6E, Payne County, Oklahoma, and the SE/4 NW/4 of Sec. 3, T18N, R6E, Payne County, Oklahoma.
- (15) Gas Purchase Contract dated August 28, 1981, from Rock Oil, Inc., as Seller, covering the NE/4 of the NE/4 of the NW/4 of Sec. 22, T18N, R6E, Payne County, Oklahoma, and the SW/4 of the NW/4 of the SE/4 of Sec. 8, T18N, R6E, Payne County, Oklahoma.
- (16) Gas Purchase Contract dated September 21, 1981, from Don Reece Prod., as Seller, covering Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 32, 33, 34, 35 and 36, T18N, R6E, Payne County, Oklahoma, and Sections 29, 30, 31 and 32, T19N, R7E, Creek County, Oklahoma.
- (17) Gas Purchase Contract dated January 20, 1982, from Royal Oil & Gas Corporation, as Seller, covering the N/2 NW/4 of Sec. 16, T18N, R6E, Payne County, Oklahoma, and the S/2 SE/4 of Sec. 16, T18N, R6E, Payne County, Oklahoma, and the S/2 SE/4 of Sec. 16, T18N, R6E, Payne County, Oklahoma.
- (18) Gas Purchase Contract dated January 6, 1982, from Seigel Petroleum Company, as Seller, covering the SE/4 NE/4 SE/4 of Sec. 10, T18N, R6E, Payne County, Oklahoma.
- (19) Gas Purchase Contract dated November 3, 1981, from Sellers Resources Corporation, as Seller, covering the NW/4 of NE/4 of Sec. 31, T19N, R7E, Creek County, Oklahoma.
- (20) Gas Purchase Contract dated September 1, 1981, from Taylor International, Inc., as Seller, covering the NW/4 of Sec. 21, T18N, R6E, Payne County, Oklahoma,

and the N/2 of the SE/4 of Sec. 16, T18N, R6E, Payne County, Oklahoma.

- (21) Gas Purchase Contract dated June 4, 1981, from Wood Enterprises, Inc., as Seller.
- (22) Gas Purchase Contract dated September 18, 1981, from Van Horn Oil & Gas, Inc., as Seller, covering the N/2 of the NE/4 of Sec. 33, T19N, R6E, Payne County, Oklahoma.
- (23) June 10, 1981, from Plains Production, Inc., as Seller.
- (24) June 24, 1981, from Tri-State Petroleum Company, as Seller.
- (25) July 9, 1981, from Cities Service Gas Company, as Buyer.
- (26) Lease from Nellie Culp to Parks Energy Investments, Inc. dated July 21, 1981, covering Lots 4 and 5 and S/2 SW/4 of Sec. 22, T18N, R6E, Payne County, Oklahoma, and recorded on August 28, 1981, in Book 567 at Page 587 of the records of Payne County, Oklahoma.
- (27) Construction and Operating Agreement between Parks Energy Investments, Inc., Circus Oil Company and Cheryl Ray Reus, dated May 1, 1981, and any and all other contract rights (including leases) and general intangibles of Parks Energy Investments, and Circus Oil Company.

B. Red Bird/MGM Gas Gathering System, Wagoner County and Tulsa County, Oklahoma.

(i) Real Property.

All of the Normandy Companies' right, title and interest in and to the real estate rights-of-way, easements, leases and lands used or useful or held for use in connection with the operation of a natural gas transportation pipeline and natural gas processing plant owned and operated by NOGC, or any of the Normandy Companies, as the Red Bird/MGM Gas Gathering System located in Wagoner County and Tulsa County, Oklahoma, including but not limited to the following:

- (1) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the

Southeast Quarter of the Northeast Quarter and the East Half of the Southeast Quarter of Section 14, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from David Crawford, et al., dated the 4th day of August, 1981 and recorded in Book 585, Page 290 of the records of Wagoner County, Oklahoma.

(2) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half of the Northwest Quarter of Section 13, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from David Crawford, et al., dated the 13th day of April, 1982 and recorded in Book 627, Page 402 of the records of Wagoner County, Oklahoma.

(3) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of Section 13, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from George Robinson, dated the 16th day of April, 1982 and recorded in Book 627, Page 425 of the records of Wagoner County, Oklahoma.

(4) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of Section 12, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Mary W. Childress dated the 17th day of August, 1981 and recorded in Book 587, Page 324 of the records of Wagoner County, Oklahoma.

(5) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along West Half of the Southwest Quarter of the Southwest Quarter of Section 12, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Mary W. Childress dated the 24th day of November, 1981 and recorded in Book 627, Page 410 of the records of Wagoner County, Oklahoma.

(6) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the East Half of the Southwest Quarter of the Southwest Quarter of Section 12, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Sylvester Beard, dated the 3rd day of November, 1981 and recorded in Book 627, Page 404 of the records of Wagoner County, Oklahoma.

(7) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Southeast Quarter of Section 11, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from W.W. Lefeber, dated the 15th day of

December, 1981 and recorded in Book 627, Page 414 of the records of Wagoner County, Oklahoma.

(8) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southeast Quarter of Section 11, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Commodore Payne, et ux., dated the 29th day of July, 1981 and recorded in Book 585, Page 292 of the records of Wagoner County, Oklahoma.

(9) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Southeast Quarter of Section 11, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Commodore Payne, dated the 18th day of August, 1981 and recorded in Book 587, Page 195 of the records of Wagoner County, Oklahoma.

(10) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 11 and the Southeast Quarter of Section 10, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Evelyn C. Wolcott, dated the 24th day of August, 1981 and recorded in Book 587, Page 197 of the records of Wagoner County, Oklahoma.

(11) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Northeast Quarter of Section 10, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Aurlevia Beard, dated the 2nd day of September, 1981 and recorded in Book 587, Page 322 of the records of Wagoner County, Oklahoma.

(12) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Northeast Quarter of Section 10, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Josephine Cook, et al., dated the 2nd day of September, 1981 and recorded in Book 587, Page 320 of the records of Wagoner County, Oklahoma.

(13) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 10 and the Southwest Quarter of the Southeast Quarter of Section 9, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from C.G. Stone, et ux., dated the 20th day of August, 1981 and recorded in Book 587, Page 199 of the records of Wagoner County, Oklahoma.

(14) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Northwest Quarter of Section 10, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Sue Lipp Stone, dated the 4th day of November, 1981 and recorded in Book 627, Page 440 of the records of Wagoner County, Oklahoma.

(15) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southeast Quarter and the South Half of the Northeast Quarter of the Southeast Quarter of Section 9, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Ralph Stone, Jr., dated the 19th day of August, 1981 and recorded in Book 587, Page 201 of the records of Wagoner County, Oklahoma.

(16) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half of the Northeast Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 9, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Sue L. Stone, dated the 24th day of August, 1981 and recorded in Book 587, Page 203 of the records of Wagoner County, Oklahoma.

(17) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 1, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from W.J. Stafford, et vir., dated the 13th day of August, 1981 and recorded in Book 632, Page 816 of the records of Wagoner County, Oklahoma.

(18) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of Section 2 and the Southeast Quarter of Section 2, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from W.J. Stafford, et vir., dated the 13th day of August, 1981 and recorded in Book 627, Page 437 of the records of Wagoner County, Oklahoma.

(19) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Corner of Lot 3 of Section 2, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Richard Cole, et ux., dated the 3rd day of August, 1981 and recorded in Book 585, Page 294 of the records of Wagoner County, Oklahoma.

(20) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West

Half of Lot 3 of Section 2, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from J. D. Jamison, et ux., dated the 31st day of July, 1981 and recorded in Book 585, Page 296 of the records of Wagoner County, Oklahoma.

(21) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of Section 34, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Carl Main, et ux., dated the 31st day of August, 1981 and recorded in Book 587, Page 314 of the records of Wagoner County, Oklahoma.

(22) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of North 16.23 Ac. of Lot 1, Section 3, Township 16 North, Range 16 East and the North 70 Ac. of the East Half of the Southwest Quarter of Section 34, Township 17 North, Range 16 East in Wagoner County, Oklahoma, from R.D. Taylor, et ux., dated the 15th day of September, 1981 and recorded in Book 587, Page 316 of the records of Wagoner County, Oklahoma.

(23) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the South Half of the East Half of the Southwest Quarter of Section 34, Township 17 North, Range 16 East in Wagoner County, Oklahoma, from M.D. Taylor, et ux., dated the 1st day of September, 1981 and recorded in Book 587, Page 318 of the records of Wagoner County, Oklahoma.

(24) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South 32 Acres of Lot 1, Section 3, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from George Robinson, et ux., dated the 25th day of August, 1981 and recorded in Book 587, Page 207 of the records of Wagoner County, Oklahoma.

(25) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half of the Southeast Quarter of the Northeast Quarter and the 4 acres of the South 20 acres of the Southeast Quarter of the Northeast Quarter of Section 3, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Booker T. McHenry, dated the 24th day of August, 1981 and recorded in Book 587, Page 205 of the records of Wagoner County, Oklahoma.

(26) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of Section 34, Township 17 North, Range 16 East in Wagoner County, Oklahoma, from Edith Secrest, et vir., dated the 12th day of November, 1981 and recorded in Book 627, Page 430 of the records of Wagoner County, Oklahoma.

(27) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Northeast Quarter and the East Half of the Southeast Quarter of Section 14, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Mae Crawford, et vir., dated the 13th day of April, 1982 and recorded in Book 627, Page 399 of the records of Wagoner County, Oklahoma.

(28) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Northwest Quarter of Section 23, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Sylvester Beard, dated the 19th day of November, 1981 and recorded in Book 627, Page 407 of the records of Wagoner County, Oklahoma.

(29) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Northwest Quarter of Section 23, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Kenneth Marshall, dated the 18th day of November, 1981 and recorded in Book 627, Page 420 of the records of Wagoner County, Oklahoma.

(30) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Southeast Quarter of the West Half of the Southwest Quarter of the the South Half of the Southwest Quarter of Section 22 and the North Half of the Southwest Quarter and the Southerly 16 acres in the Northwest Quarter of Section 27 and the Southwest Quarter of the Southwest Quarter of Section 33, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Jack Limon, dated the 21st day of December, 1981 and recorded in Book 627, Page 416 of the records of Wagoner County, Oklahoma.

(31) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Southwest Quarter of the Southwest Quarter of Section 27, Township 16 North, Range 16 East and the North Half of the Northwest Quarter and the South Half of the Northwest Quarter and the North Half of the Southwest Quarter and

the North 15 acres of the West 60 acres of the South Half of the Southwest Quarter of Section 10, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Dale E. Nutter, dated the 23rd day of December, 1981 and recorded in Book 627, Page 453 of the records of Wagoner County, Oklahoma.

(32) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of the Southwest Quarter of Section 34, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Hurst Hogan, dated the 15th day of December, 1981 and recorded in Book 632, Page 821 of the records of Wagoner County, Oklahoma.

(33) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southeast Quarter and the Southwest Quarter of the Southeast Quarter of Section 33, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Aaron Andrews, dated the 16th day of December, 1981 and recorded in Book 627, Page 393 of the records of Wagoner County, Oklahoma.

(34) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southwest Quarter of Section 33, Township 16 North, Range 16 East and the Northeast Quarter of the Southwest Quarter of Section 4, Township 15 North, Range 16 East in Wagoner County, Oklahoma, from Earl Todd, dated the 9th day of December, 1981 and recorded in Book 627, Page 446 of the records of Wagoner County, Oklahoma.

(35) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of the Northwest Quarter of the Southeast Quarter of Section 4 and the North Half of the Southwest Quarter and the South Half of the Southwest Quarter of Section 3, Township 15 North, Range 16 East in Wagoner County, Oklahoma, from Russell Snyder, dated the 17th day of December, 1981 and recorded in Book 627, Page 433 of the records of Wagoner County, Oklahoma.

(36) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Lot (Northwest Quarter of the Northwest Quarter) and Southwest Quarter of the Northwest Quarter of Section 3, Township 15 North, Range 16 East in Wagoner County, Oklahoma, from V. Elliott, et ux., dated the 16th day of June, 1981 and recorded in Book 632, Page 819 of the records of Wagoner County, Oklahoma.

(37) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half of the Southeast Quarter and the South Half of the South Half of the Northeast Quarter and the South Half of the South Half of the North Half of the Northeast Quarter of Section 10, Township 15 North, Range 16 East Wagoner County, Oklahoma, from Mrs. Lorine Moore, dated the 11th day of December, 1981 and recorded in Book 62 Page 423 of the records of Wagoner County, Oklahoma.

(38) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half of the Southwest Quarter of Section 11, Township 1 North, Range 16 East in Wagoner County, Oklahoma, from James Ritchie, dated the 23rd day of December, 1981 and recorded in Book 627, Page 427 of the records of Wagoner County, Oklahoma.

(39) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Northwest Quarter of Section 30, Township 17 North, Range 16 East in Wagoner County, Oklahoma, from Richard Watson, dated the 20th day of June, 1983 and recorded in Book 639, Page 273 of the records of Wagoner County, Oklahoma.

(40) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northerly 8.63 Acres of Lot 1 of Section 5, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Dale Jackson, dated the 20th day of July, 1983 and recorded in Book 639, Page 275 of the records of Wagoner County, Oklahoma.

(41) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of the Northwest Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Roger Russell, dated the 6th day of June, 1986 and recorded in Book 639, Page 277 of the records of Wagoner County, Oklahoma.

(42) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Southwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Mary Childress, dated the 8th day of April, 1983 and recorded in Book 639, Page 278 of the records of Wagoner County, Oklahoma.

(43) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West

Half of the Southeast Quarter of Section 30, Township North, Range 16 East in Wagoner County, Oklahoma, from Janice Rooney, dated the 20th day of April, 1983 and recorded in Book 639, Page 271 of the records of Wagoner County, Oklahoma.

(44) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of the Southwest Quarter of Section 9, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Jack Hensley, dated the 28th day of February, 1986 and recorded in Book 690, Page 534 of the records of Wagoner County, Oklahoma.

(45) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southwest Quarter of Section 9, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Clifford Stone, dated the 3rd day of March, 1986 and recorded in Book 690, Page 533 of the records of Wagoner County, Oklahoma.

(46) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southeast Quarter of Section 8, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Clifford Stone, dated the 3rd day of March, 1986 and recorded in Book 690, Page 532 of the records of Wagoner County, Oklahoma.

(47) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Southeast Quarter of Section 9, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Robert K. Cook, Jr., dated the 4th day of March, 1986 and recorded in Book 690, Page 531 of the records of Wagoner County, Oklahoma.

(48) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the East Half of the Southwest Quarter and the West Half of the Southeast Quarter of Section 8, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Mildred Leavell Trust, dated the 3rd day of March 1986 and recorded in Book 690, Page 530 of the records of Wagoner County, Oklahoma.

(49) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southeast Quarter of Section 9, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Ralph Stone, dated the 8th day of March,

1981 and recorded in Book 690, Page 529 of the records of Wagoner County, Oklahoma.

(50) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northwest Quarter and the Southwest Quarter of the Northwest quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Russell Roger, dated the 20th day of February, 1986 and recorded in Book 691, Page 244 of the records of Wagoner County, Oklahoma.

(51) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the East Half of the Northwest Quarter of the Northeast Quarter of the Northeast quarter of Section 23, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Edward Greene, dated the 14th day of March, 1986 and recorded in Book 691, Page 243 of the records of Wagoner County, Oklahoma.

(52) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of Section 23, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Lucille Vernon, dated the 14th day of March, 1986 and recorded in Book 691, Page 242 of the records of Wagoner County, Oklahoma.

(53) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Northwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Dorothy Morgan, et ux., dated the 20th day of March, 1986 and recorded in Book 691, Page 241 of the records of Wagoner County, Oklahoma.

(54) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 32, Township 17 North, Range 16 East in Wagoner County, Oklahoma, from Ned Sarty, dated the 13th day of May, 1986 and recorded in Book 694, Page 689 of the records of Wagoner County, Oklahoma.

(55) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Donald Gillespie, et ux., dated the 30th day of June, 1986 and recorded in Book 693, Page 291 of the records of Wagoner County, Oklahoma.

(56) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northeast Quarter of Section 25, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Lucille Pyle, dated the 6th day of October, 1986 and recorded in Book 707, Page 174 of the records of Wagoner County, Oklahoma.

(57) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the East Half of Section 15, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Ruth Franklin, dated the 14th day of January, 1987 and recorded in Book 716, Page 62 of the records of Wagoner County, Oklahoma.

(58) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of the Southwest Quarter of Section 2, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from R. B. Murray, dated the 24th day of October, 1986 and recorded in Book 716, Page 61 of the records of Wagoner County, Oklahoma.

(59) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northeast Quarter of Lot 2, Section 3, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Odean Pool, dated the 22nd day of October, 1986 and recorded in Book 716, Page 60 of the records of Wagoner County, Oklahoma.

(60) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the 1 acre in the Northwest Quarter of the Northeast Quarter of Section 3, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Nancy Shadwick Long, dated the 23rd day of October, 1986 and recorded in Book 716, Page 59 of the records of Wagoner County, Oklahoma.

(61) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northwest Quarter of Section 3, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Joe Vernon, dated the 22nd day of October, 1986 and recorded in Book 716, Page 58 of the records of Wagoner County, Oklahoma.

(62) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 11, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Mitchell Kent,

dated the 9th day of November, 1986 and recorded in Book 716, Page 57 of the records of Wagoner County, Oklahoma.

(63) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwest Quarter of Section 11, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Mary Childress, dated the 27th day of October, 1986 and recorded in Book 716, Page 56 of the records of Wagoner County, Oklahoma.

(64) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half of the North Half of the Northwest Quarter of the Southwest Quarter of Section 2, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Izora Hunter, dated the 10th day of November, 1986 and recorded in Book 716, Page 54 of the records of Wagoner County, Oklahoma.

(65) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Northwest Quarter of the Southwest Quarter of Section 2, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Don R. Moon, dated the 17th day of November, 1986 and recorded in Book 716, Page 54 of the records of Wagoner County, Oklahoma.

(66) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the North Half of the Northwest Quarter of the Southwest Quarter of Section 2, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Garrett Chancellor, dated the 10th day of November, 1986 and recorded in Book 716, Page 53 of the records of Wagoner County, Oklahoma.

(67) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southeast Quarter of Section 33, Township 18 North, Range 15 East in Wagoner County, Oklahoma, from Gary Hughes, dated the 8th day of December, 1986 and recorded in Book 716, Page 52 of the records of Wagoner County, Oklahoma.

(68) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of the Southeast Quarter of Section 33, Township 18 North, Range 15 East in Wagoner County, Oklahoma, from Robert C. Poe, dated the 19th day of February, 1987 and recorded in Book 716, Page 51 of the records of Wagoner County, Oklahoma.

(69) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the West Half of the Northwest Quarter Less the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 11, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Gene Boomershine, dated the 11th day of March, 1987 and recorded in Book 716, Page 50 of the records of Wagoner County, Oklahoma.

(70) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northwest Quarter of of Section 3, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Marion Dale Davis, dated the 12th day of March, 1987 and recorded in Book 716, Page 49 of the records of Wagoner County, Oklahoma.

(71) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Northeast Quarter of Section 33, Township 18 North, Range 15 East in Wagoner County, Oklahoma, from G. Max Brissey, dated the 1st day of November, 1986 and recorded in Book 716, Page 48 of the records of Wagoner County, Oklahoma.

(72) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of Section 31, Township 17 North, Range 16 East in Wagoner County, Oklahoma, from M. B. Carter, dated the 4th day of August, 1987 and recorded in Book 724, Page 150 of the records of Wagoner County, Oklahoma.

(73) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Northeastern Quarter of Section 5, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Russel Lenart, dated the 25th day of May, 1984 and recorded in Book 653, Page 578 of the records of Wagoner County, Oklahoma.

(74) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Elliott Howe, dated the 5th day of December, 1983 and recorded in Book 652, Page 794 of the records of Wagoner County, Oklahoma.

(75) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Southeast Quarter and the North Half of the

Southeast Quarter of Section 33, Township 17 North, Range 16 East in Wagoner County, Oklahoma, from Harold Lee, dated the 9th day of November, 1981 and recorded in Book 627, Page 411 of the records of Wagoner County, Oklahoma.

(76) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the North Half of the Southeast Quarter of Section 2, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Charley Stafford, dated the 18th day of January, 1988 and recorded in Book 733, Page 093 of the records of Wagoner County, Oklahoma.

(77) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southwestern Quarter of Section 1, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from Charley Stafford, dated the 18th day of January, 1988 and recorded in Book 732, Page 096 of the records of Wagoner County, Oklahoma.

(78) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Calvin Hogan, dated the 6th day of June, 1986.

(79) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Homer Sarty, dated the 6th day of June, 1986.

(80) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northeast Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Joe Stone, dated the 6th day of June, 1986.

(81) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Northeast Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Elmer Dale, dated the 6th day of June, 1986.

(82) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northwest Quarter of the Southeast Quarter of Section 24,

Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Cleetis W. Wasson, dated the 6th day of June, 1986.

(83) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Northeast Quarter of the Southwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Billy Cypert, dated the 20th day of June, 1986.

(84) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Northwest Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Dave Olden, dated the 6th day of June, 1986.

(85) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Southwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Jim Williams, dated the 27th day of October, 1986.

(86) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the Southeast Quarter of the Southwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from James A. Williams, dated the 6th day of June, 1986.

(87) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Northwest Quarter of the South Half of the Southwest Quarter of the Northeast Quarter of Section 4, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from Harold Wilhoit, dated the 24th day of August, 1984.

(88) Lease of Real Property dated August 21, 1981 (as recorded in Book 627, Page 396 of the Records of Wagoner county, Oklahoma), and all of the right, title, and interest of Normandy Oil and Gas Company, Inc., in and to that certain Option on Lease of Real Property dated September 6, 1988, by and between David G. Crawford and Mae L. Crawford and Adobe Gas Gathering and processing Co. to re-lease the premises covered by the above described Lease Agreement under the same terms and conditions as therein set forth, all as assigned and conveyed to Normandy Oil and Gas Company, Inc., said Lease of Real Property and Option on Lease of Real

Property being applicable to the following described tract or parcel of land:

A parcel of land 320' x 550' located in the NE/4 SE/4 NE/4 of Section 14, Township 16N, Range 16E of the Indian Meridian, Wagoner County, Oklahoma, and more specifically described as follows: Beginning at a point at the west boundary of County Road right of way and the south line of the NE/4 NE/4; Thence West 320'; Thence South 550'; Thence East 320'; Thence North 550', to the point of beginning, consisting of 4.04 acres, more or less.

(89) Right of Way Grant or Easement of 40 feet, to lay, maintain and operate a pipeline, on, over, through or along the South edge of Red Bird Plant Yard, 100 feet more or less West of the North/South property fence line of the same North/South Fence for 1,320 feet, distance of Section 14, Township 16 North, Range 16 East in Wagoner County, Oklahoma, from David Crawford and Mae Crawford, dated the 25th day of July, 1991 and recorded in Book 796, Page 437 of the records of Wagoner County, Oklahoma.

(90) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along the South Half of the Southwest Quarter of Section 24, Township 17 North, Range 15 East in Wagoner County, Oklahoma, from James A. Williams, dated the 19th day of July, 1989 and recorded in Book 796, Page 440 of the records of Wagoner County, Oklahoma.

(ii) Personal Property, Fixtures and Equipment.

All of the Normandy Companies' right, title and interest in and to all natural gas processing plants, pipelines in place, personal property, fixtures, compressor sites, improvements, easements, licenses and servitudes situated upon or used or useful or held for use in connections with the operation of a natural gas transportation pipeline and natural gas processing plant owned and operated by NOGC, or any of the Normandy Companies, as the Red Bird/MGM Gas Gathering System located in Wagoner County and Tulsa County, Oklahoma, including but limited to those items described below, and all other pipe, meters, measurement equipment, tanks, valves, meter houses and meter runs required for use in connection with the Red Bird/MGM Gas Gathering System, including but not limited to the following:

- (1) Plant Inlet separator
- (2) Water knockout scrubber

- (3) Gas/gas exchanger
- (4) Gas/liquid exchanger
- (5) Gas Chiller
- (6) Cold three phase separator (gas, prod. glycol)
- (7) Stabilizer tower
- (8) Tower reboiler (hot oil heater)
- (9) Glycol regenerator with pump
- (10) Lean-to-rich glycol exchanger
- (11) Product cooler
- (12) 30,000 Gallon product storage tank complete with pump and loading facilities
- (13) Fuel gas scrubber
- (14) C-3 cooler
- (15) C-3 accumulator
- (16) C-3 economizer
- (17) C-3 suction make up scrubber
- (18) Iron sponge unit
- (19) Slop all storage tank (100BBL)
- (20) 500 Gallon motor oil storage tank
- (21) 500 Gallon glycol storage tank
- (22) 1985 Four wheel drive Nissan pickup
- (23) Trailer warehouse (8' x 30')
- (24) Office building with shop attached
- (25) 8G825 White Superior with Gardner Denver MLQ four throw-three stage Gator compressor (self contained)
- (26) 3711 Waukesha with Clark CFB two throw - two stage compressor

- (27) 342 Caterpillar with KOA Knight two throw - one stage compressor
- (28) Barton 202 meters with meter runs (95 total)
- (29) Gathering system in place:
 - 8" ± 6,000 feet of steel pipe
 - 8" ± 84,480 feet of poly pipe
 - 4" ± 167,520 feet of poly pipe
 - 3" ± 43,080 feet of poly pipe
 - 2" ± 26,620 feet of poly pipe
 - (approximately 70 miles of gathering system in ground)
- (30) Five miles of Right-Of-Way purchased for extension of gathering system
- (31) Masterco Meters with meter runs (5 total)
- (32) H29 monitoring system
- (33) Misc. tools and instruments for engine repair and field meter calibration

GAS PROCESSING PLANT

The gas processing plant known as the Red Bird Plant, situated within a parcel of land 320' x 550' located in the NE 1/4 SE 1/4 NE 1/4 of Section 14, Township 16N, Range 16E of the Indian Meridian, Wagoner County, Oklahoma, and more specifically described as follows:

Beginning at a point at the west boundary of County Road right-of-way and the south line of the NE 1/4 NE 1/4, thence West 320', thence South 550', thence East 320', then North 550', to the point of beginning, consisting of 4.04 acres more or less, and including all Plant assets and property, both real and personal, used in the operation of said Plant.

PIPELINE IN PLACE

A natural gas gathering system and residue pipeline made up of 2 inch, 3 inch, 4 inch, 6 inch, and 8 inch pipelines transporting gas from numerous wells in Wagoner County, Oklahoma to the inlet of the Red Bird Gas Processing plant and from the outlet of the said Gas Processing plant, all located on the real estate rights-of-way, easements, leases, and lands listed on Exhibit "A" to the Mortgage, Security Agreement, Financing Statement and Assignment dated July 7, 1989, to which this page is attached as a part of Exhibit "B".

(iii) Intangible Personal Property.

All of the Normandy Companies' right, title and interest under and by virtue of (including the right to receive payments) all contracts or agreements relating to or pertaining to the sale, purchase, treating or processing of hydrocarbons related to the Red Bird/MGM Gas Gathering System located in Wagoner County and Tulsa County, Oklahoma, entered into by NOGC or any of the Normandy Companies, or in which NOGC or any of the Normandy Companies has acquired an interest, including but not limited to the contracts and agreements set forth below; and all present and future accounts receivable relating to the operation of the Red Bird/MGM Gas Gathering System, including but not limited to all open account receivables and all account receivables arising under or pursuant to any joint operating agreements, agreements, contracts, or divisions orders, any and all accounts, contract rights, instruments, documents, general intangibles, and chattel paper arising from or by virtue of any transactions relating to the Red Bird/MGM Gas Gathering System:

- (1) Gas Purchase Contract from IT Enterprises, Inc., as Seller.
- (2) Gas Purchase Contract dated August 18, 1981, Bill Kirk/Sandia Exploration Co., as Seller.
- (3) Gas Purchase Contract dated October 22, 1981, Infinity Oil & Gas/Paul V. Russell, as Seller.
- (4) Gas Purchase Contract dated February 1, 1982, Richardson Construction, as Seller.
- (5) Gas Purchase Contract dated February 1, 1982, G. Matthew Richardson, as Seller.
- (6) Gas Purchase Contract dated February 23, 1982, Warren Ramsey, as Seller.
- (7) Gas Purchase Contract dated July 1, 1982, Magnolia Pet./Wheeley Holding Co., as Seller.
- (8) Gas Purchase Agreement dated August 16, 1982, Jack Gaskin/Oil & Gas Logistics, as Seller.
- (9) Gas Purchase Agreement dated January 3, 1983, Leep Oil & Gas, as Seller.
- (10) Gas Purchase Agreement dated January 20, 1983, Adams Oil Company, as Seller.

- (11) Gas Purchase Agreement dated February 22, 1983, Enertec/Triplex Oil & Gas Co., as Seller.
- (12) Gas Purchase Agreement dated July 21, 1983, Remac Oil Corporation, as Seller.
- (13) Gas Purchase Agreement dated September 15, 1983, Cowen Associates, as Seller.
- (14) Gas Purchase Agreement dated December 1, 1983, Mark Pet./Digger Oil & Gas, as Seller.
- (15) Gas Purchase Agreement dated May 29, 1984, Ken Richardson DBA Rich. Const., as Seller.
- (16) Gas Purchase Agreement dated June 12, 1984, W.H. Lewis, as Seller.
- (17) Gas Purchase Agreement dated August 8, 1984, Nowata/Cypert Oil & Gas, as Seller.
- (18) Gas Purchase Agreement dated October 1, 1984, Philco Energy, Inc., as Seller.
- (19) Gas Purchase Agreement dated March 19, 1984, Almac Eng./Cimmaron Valley Energy, Inc., as Seller.
- (20) Gas Purchase Agreement dated May 1, 1984, SP Energy/Sentinel Petroleum, Inc., as Seller.
- (21) Gas Purchase Agreement dated May 1, 1984, Sooner State Petroleum Inc., as Seller.
- (22) Gas Purchase Agreement dated January 10, 1985, Everett Interprises/Van Ramsey, as Seller.
- (23) Gas Purchase Agreement dated January 14, 1985, Thomas Stone, as Seller.
- (24) Gas Purchase Agreement dated January 28, 1985, Aquarian Energy Corp., as Seller.
- (25) Gas Purchase Agreement dated March 1, 1985, James Davis/Stoco Development Corp., as Seller.
- (26) Gas Purchase Agreement dated March 25, 1983, Redugo Company (Dan-Ric O&G), as Seller.

- (27) Gas Purchase Contract dated May 1, 1985, Whitson Oil Co., Inc., as Seller.
- (28) Gas Purchase Contract dated May 1, 1985, SITCO, Inc., as Seller.
- (29) Gas Purchase Contract dated June 18, 1985, Briscoe Land Development, as Seller.
- (30) Gas Purchase Contract dated June 19, 1985, Nowata/Cypert Oil & Gas, Inc., as Seller.
- (31) Gas Purchase Contract dated July 15, 1985, Martha Baxter/Domino Oil & Gas, Inc., as Seller.
- (32) Gas Purchase Contract dated August 11, 1985, Woodrow Oil Co./Jack R. Lamberson, as Seller.
- (33) Gas Purchase Contract dated August 19, 1985, Ivan Pulliam/Stoco Development Co., as Seller.
- (34) Gas Purchase Contract dated October 22, 1985, Ellis Creek/Stoco Development Co., as Seller.
- (35) Gas Purchase Contract dated March 1, 1985, Venture Energy Enterprises, Inc., as Seller.
- (36) Gas Purchase Contract dated August 2, 1985, ASM Oil & Gas, Inc., as Seller.
- (37) Gas Purchase Contract dated December 30, 1985, Wildfire Oil & Gas, Inc., as Seller.
- (38) Gas Purchase Contract dated January 3, 1986, Floyd Caxton/Omoco, Inc., as Seller.
- (39) Gas Purchase Contract dated January 30, 1986, Ellis Creek/Stoco Development Corp., as Seller.
- (40) Gas Purchase Contract dated March 13, 1986, Dual Operating/Omoco, Inc., as Seller.
- (41) Gas Purchase Contract dated April 24, 1986, Petroleum Operating Co., as Seller.
- (42) Gas Purchase Contract dated July 3, 1986, Everett Enterprises Co., as Seller.
- (43) Gas Purchase Contract dated July 11, 1986, Joe Samuels/Dual Operating & Prod., as Seller.

- (44) Gas Purchase Contract dated July 24, 1986, Caril Barron/Woodrow Oil Co., as Seller.
- (45) Gas Purchase Contract dated September 10, 1986, Woodrow Oil Co., as Seller.
- (46) Gas Purchase Contract dated October 17, 1986, Nowata/Cypert Oil & Gas, as Seller.
- (47) Gas Purchase Contract dated September 17, 1986, Daas Int., as Seller.
- (48) Gas Purchase Contract dated October 9, 1986, Magnolia Pet./Sebastian Holdings, as Seller.
- (49) Gas Purchase Contract dated October 20, 1986, Halfway Oil/Cypert Oil & Gas, as Seller.
- (50) Gas Purchase Contract dated November 20, 1986, Jack Limon, as Seller.
- (51) Gas Purchase Contract dated November 3, 1986, Woodrow Oil Company, as Seller.
- (52) Gas Purchase Contract dated March 27, 1986, Nowata/Kayo Corp., as Seller.
- (53) Gas Purchase Contract dated June 1, 1986, Nowata/Kayo Corp., as Seller.
- (54) Gas Purchase Contract dated April 7, 1986, Reeves Chalmers/Wildfire Oil & Gas, as Seller.
- (55) Gas Purchase Contract dated February 12, 1987, Doris Riley, as Seller.
- (56) Gas Purchase Contract dated February 1, 1987, I.T. Enterprises, as Seller.
- (57) Gas Purchase Contract dated February 26, 1987, Woodrow Oil Company, as Seller.
- (58) Gas Purchase Contract dated March 5, 1987, Caril Barron, as Seller.
- (59) Gas Purchase Contract dated April 10, 1987, Wildfire Oil & Gas, Inc., as Seller.
- (60) Gas Purchase Contract dated July 8, 1987, Wagoner County Transmission Co., as Seller.

- (61) Gas Purchase Contract dated July 1, 1988, Venture Energy Enterprises, as Seller.
- (62) Gas Purchase Contract dated June 17, 1988, Wildfire Oil & Gas, as Seller.
- (63) Gas Purchase Contract dated December 23, 1988, Dual Operating & Production, as Seller.
- (64) Gas Purchase Contract dated April 8, 1988, Cooper Shields, as Seller.
- (65) Gas Purchase Contract dated January 1, 1988, Azure Energy/Dual Operating & Prod. Co., as Seller.
- (66) Gas Purchase Contract dated June 13, 1988, L.D. Stacy Oil Co., as Seller.
- (67) Gas Purchase Contract dated July 5, 1981, Oklahoma Natural Gas, as Seller.
- (68) Gas Purchase Contract dated October 2, 1981, Bruce McCollough, as Seller.
- (69) Gas Purchase Contract dated November 18, 1988, Benchmark, as Seller.
- (70) Gas Purchase Contract dated March 13, 1986, Barbara Gillespie, as Seller.
- (71) Gas Purchase Contract dated January 11, 1985, Infinity Energy, as Seller.
- (72) Gas Purchase Contract dated December 2, 1988, J & S Oil Co., as Seller.
- (73) Gas Purchase Contract dated October 17, 1986, Kayo, as Seller.
- (74) Gas Purchase Contract dated April 18, 1989, Boris Johnston, as Seller.
- (75) Gas Purchase Contract dated March 1, 1982, Ivan Pulliam, as Seller.
- (76) Gas Purchase Contract dated January 30, 1986, David Simon, as Seller.
- (77) Gas Purchase Contract dated February 4, 1989, Joe L. Watkins, as Seller.

(78) Gas Purchase Contract dated June 23, 1989,
Paul Watkins, as Seller.

(79) Gas Purchase Contract dated July 15, 1981,
Oklahoma Natural Gas Company, as Buyer

C. Red Bird/MGM Gas Gathering System, Wagoner County and Tulsa
County, Oklahoma.

(i) Real Property.

All of the Normandy Companies' right, title and interest in and to the real estate rights-of-way, easements, leases and lands used or useful or held for use in connection with the operation of a natural gas transportation pipeline and natural gas processing plant owned and operated by NOGC, or any of the Normandy Companies, as the Red Bird/MGM Gas Gathering System located in Wagoner County and Tulsa County, Oklahoma, including but not limited to the following:

(1) Right of Way Grant or Easement to lay, maintain and operate a pipeline on, over, through or along Section 1, Township 17 North, Range 14 East in Tulsa County, Oklahoma, from Ed Neighbors, dated the 20th day of February, 1989.

(2) Right of Way Grant or Easement, to lay, maintain and operate a pipeline, on, over, through or along Section 36, Township 18 North, Range 14 East in Tulsa County, Oklahoma, from Ed Crow, dated the 1st day of March, 1989.

(3) Lease Services Right of Way Grant or Easement covering Section 25, Township 18 North, Range 14 East in Tulsa County, Oklahoma, from Richardson Land Trust.

(4) Lease Services Right of Way Grant or Easement covering Section 36, Township 18 North, Range 14 East in Tulsa County, Oklahoma, from Richardson Land Trust.

(5) Lease Services Right of Way Grant or Easement, covering along Section 1, Township 17 North, Range 14 East in Tulsa County, Oklahoma, from Fossil Bay Petroleum.

(ii) Personal Property, Fixtures and Equipment.

All of the Normandy Companies' right, title and interest in and to all natural gas processing plants, pipelines in place, personal property, fixtures, compressor sites, improvements, easements, licenses and servitudes situated upon or used or useful or held for use in connections

with the operation of a natural gas transportation pipeline and natural gas processing plant owned and operated by NOGC, or any of the Normandy Companies, as the Red Bird/MGM Gas Gathering System located in Wagoner County and Tulsa County, Oklahoma, including but limited to those items described below, and all other pipe, meters, measurement equipment, tanks, valves, meter houses and meter runs required for use in connection with the Red Bird/MGM Gas Gathering System, including but not limited to the following:

- (1) Four (4) Meters consisting of 1 - Reynolds, 1 - American Mercury, 1 - American Dryflow and 1 - Barton
- (2) Three (3) 2" Meter Runs
- (3) One (1) 4" Meter Runs

(iii) Partnership Interests.

All the Normandy Companies' right, title and interest in and to the Wagoner County Gas Systems Limited Partnership, an Oklahoma limited partnership.

(iv) Stock.

All the Normandy Companies' right, title and interest in and to Two Hundred Fifty (250) shares of the common stock, \$1.00 par value, of Wagoner County Transmission, Inc., an Oklahoma corporation, represented by Certificate No. 1.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that Massey have and recover judgment in personam and in rem against defendants NOGC, NGPC and NEU, and in rem only against defendant MGM, in the amount of \$2,600,000.00, representing principal, accrued but unpaid interest, together with costs of court and attorney fees through and including the date of this Decree of Foreclosure and Order of Sale, and that said indebtedness is secured by the Mortgages, Security Agreements and Financing Statements in favor of Massey, and that said Mortgages, Security Agreements and Financing

Statements be foreclosed and the Property be sold to pay said Judgment, and that any right, title or interest which defendants NOGC, NGPC, NEU or MGM have or claim to have in or to the Property is subsequent, junior and inferior to the liens and claim of Massey;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Massey is entitled to enforce its security interest in all personal property that is part of the Property pursuant to the terms of the various Mortgages and applicable Oklahoma law, at its election.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that upon the failure of defendants NOGC, NGPC and NEU to satisfy the respective judgment and lien of Massey, in connection with the indebtedness owed to Massey, that Massey, at its option, shall either convey the Property through the duly appointed Receiver in accordance with 12 O.S. 1991, § 1554, or have Special Executions and Orders of Sale and Foreclosure issued, commanding the Sheriffs of Creek County, Payne County, Wagoner County and Tulsa County to levy upon the Property hereinabove described, and after having the same appraised as provided by law, to proceed to advertise and sell the same as provided by law and apply the proceeds arising from said sales as follows:

FIRST: In payment of the costs herein accrued and accruing.

SECOND: In payment of the Judgment and liens of Massey in the sum of \$2,600,000.00.

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

If there are not sufficient proceeds from the sales of the Property to pay all said sums, the Court shall enter a deficiency on the Judgment in favor of Massey and against the Normandy Companies for any deficiency between the proceeds of such sales and the amounts owing pursuant to this Decree, together with interest, costs and attorney fees to collect the Judgment.

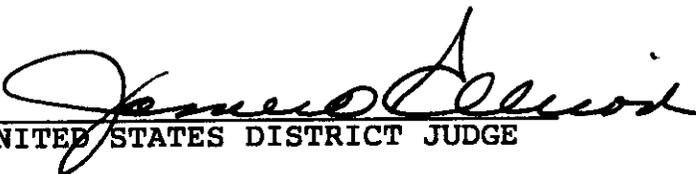
IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that from and after the sale of the above described Property, under and by virtue of this Judgment and Decree by either of the two methods described above, and after confirmation thereof, that the parties hereto and all persons claiming by, through or under them, are hereby forever barred and foreclosed of any right, title, interest or claim in and to the Property or any part thereof;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Receiver appointed in this action shall continue to manage and operate the Markham Gas Gathering System and the Red Bird/MGM Gas Gathering System through the date of the sale of the Property, and that Massey is entitled to continue to receive all net revenues, if any, generated by the Markham Gas Gathering System or the Red Bird/MGM Gas Gathering System, after payment of all operational expenses accruing thereon, through the date of the sale of the Property;

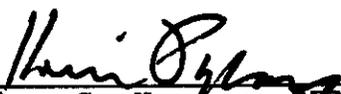
IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Normandy Companies shall provide to Massey all information and documents requested by Massey, which have not been previously provided to Massey, to substantiate revenues and expenses of the Markham Gas Gathering System and the Red Bird/MGM Gas Gathering System;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Normandy Companies shall indemnify Massey for all claims against the Normandy Companies relating to the real and personal property of the Markham Gas Gathering System and/or the Red Bird/MGM Gas Gathering System, including but not limited to delinquent producer accounts, vendor accounts, trade accounts, suppliers, tax deficiencies or any other expense outstanding at the time of the entry of this Journal Entry of Judgment and Decree of Foreclosure which represent a valid and enforceable lien against the real and personal property of the Markham Gas Gathering System and/or the Red Bird/MGM Gas Gathering System after giving legal effect to the foreclosure and sale of the same.

DONE this 30th day of November, 1992.


UNITED STATES DISTRICT JUDGE

Approved as to form
and content:



Christopher S. Herbux, OBA No. 11859
Kevin M. Pybas, OBA No. 14798
Holliman, Langholz, Runnels & Dorwart
A Professional Corporation
700 Holarud Building
Ten East Third Street
Tulsa, Oklahoma 74103-3695
(918) 584-1471

Attorneys for Plaintiff
Massey Gas Systems


Terry M. Thomas, OBA No. 8951
James H. Ferris, OBA No. 2883
Moyers, Martin, Santee,
Imel & Tetrick
320 S. Boston Building, Suite 920
Tulsa, Oklahoma 74103
(918) 582-5281

Attorneys for Defendants
Normandy Oil and Gas Company, Inc.,
Normandy Gathering and Processing
Corporation, and Northeast Utah
Gas Corp., d/b/a NEU Gas Corp.

DEC 0 4 1992

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

LIONAL ANITA LETTERMAN,)
)
 Plaintiff,)
)
 vs.)
)
 WEST SIDE UNLIMITED CORPORATION)
 d/b/a WESTSIDE TRANSPORT, INC.,)
 and DOUGLAS DEAN HAUSCHILD,)
)
 Defendants.)

FILED
DEC 3 - 1992
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

No. 92-C-750-B

NOTICE OF DISMISSAL WITH PREJUDICE

NOTICE is hereby given that Lional Anita Letterman, the above-named plaintiff, hereby dismisses the above-entitled action with prejudice, pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure, and hereby files this notice of dismissal with the Clerk of the Court before service by defendant of either an answer or a motion for summary judgment.

JOHN L. HARLAN & ASSOCIATES, P.C.

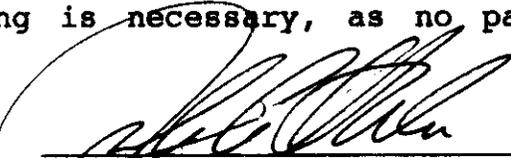
by 

John L. Harlan
Attorney for Plaintiff

404 E. Dewey St., Suite 106
P. O. Box 1326
Sapulpa, OK 74067
(918) 227-2590
OBA No. 3861

CERTIFICATE

No certificate of mailing is necessary, as no party has entered an appearance herein.



John L. Harlan

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

FILED

DEC -2 1992

RICHARD M. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

RCB BANK successor by merger to
Bank of Oklahoma-Claremore,

PLAINTIFF,

V.

Case No. 92-C-191 B ✓

R.B. MANTON, INC.
d/b/a Precision Tubulars;
R.B. MANTON
a/k/a Robert B. Manton, individually;
VERDIGRIS VALLEY ECONOMIC
DEVELOPMENT CORPORATION;
WASHINGTON COUNTY TRUST
AUTHORITY;
STIFFLEMIER PIPE COMPANY;
REDWING SERVICE & SUPPLY
COMPANY;
HAMILTON METALS, INC.;;
BBL CO.; FIRST METALS, INC. and
FEDERAL DEPOSIT INSURANCE
CORPORATION,

DEFENDANTS.

STIPULATION OF DISMISSAL

Plaintiff RCB BANK ("Plaintiff") and Defendant VERDIGRIS VALLEY ECONOMIC DEVELOPMENT CORPORATION, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, stipulate to the entry of an Order, without further notice, dismissing the Petition for Replevin (the "Petition") filed herein by Plaintiff insofar and only insofar as it relates to Defendant Verdigris Valley Economic Development Corporation, with prejudice to the refile of the same. Plaintiff is not hereby stipulating to the dismissal of the Petition or any other claims for relief as against any defendants other than Verdigris Valley Economic

Development Corporation. The parties agree to bear the responsibility of costs, expenses and attorneys' fees.

CARLE, HIGGINS, MOSIER & TAYLOR,
A Professional Corporation,

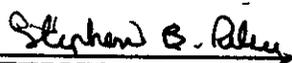
BY: 

RICHARD D. MOSIER, OBA #10414

417 West First Street
P.O. Box 1267
Claremore, OK 74018
918 341-2131

ATTORNEY FOR THE PLAINTIFF,
RCB BANK successor by merger to Bank of Oklahoma-
Claremore

CHAPEL, RIGGS, ABNEY,
NEAL & TURPEN

BY: 

STEPHEN B. RILEY, OBA #7589

502 West Sixth Street
Tulsa, OK 74119-1010

ATTORNEY FOR THE DEFENDANT,
VERDIGRIS VALLEY ECONOMIC
DEVELOPMENT CORPORATION

CERTIFICATE OF MAILING ATTACHED:

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the above and foregoing **STIPULATION OF DISMISSAL** this 30 day of October, 1992, by depositing same in the U.S. Mail, postage prepaid and addressed to:

WILLIAM T. WALKER

100 West Fifth Street

Suite 1000

Tulsa, OK 74103

JAMES E. CARRINGTON

800 Kennedy Building

Tulsa, OK 74103

W. KYLE TRESCH

Crowe & Dunlevy

500 Kennedy Building

Tulsa, OK 74103

JAMES VOGT

2808 First National Center

Oklahoma City, OK 73102


RICHARD D. MOSIER

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 ONE 40.0 ACRE TRACT OF LAND)
 DESCRIBED AS:)
)
 The NE/4 of the NW/4)
 of Section 19, Township)
 17 North, Range 18 East)
 of the Indian Meridian,)
 Wagoner County, Oklahoma,)
)
 AND ALL BUILDINGS, APPURTENANCES,)
 IMPROVEMENTS, AND CONTENTS)
 THEREON,)
)
 Defendant.)

ENTERED ON DOCKET
DATE DEC 3 1992

CIVIL ACTION NO. 92-C-553-E

FILED

DEC 2 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

JUDGMENT OF FORFEITURE

This cause having come before this Court upon plaintiff's Application filed herein, and being otherwise fully apprised in the premises, the Court finds as follows:

That the verified Complaint for Forfeiture In Rem was filed in this action on the 26th day of June, 1992; the Complaint alleges that the defendant real property, its buildings, appurtenances, and improvements is subject to forfeiture pursuant to Title 21 U.S.C. § 881(a)(6) because it was furnished, or was intended to be furnished, in exchange for a controlled substance, and pursuant to 21 U.S.C. § 881(a)(7), because it was used, or was intended for use, to commit, or to facilitate the commission of a violation of Title 21 United States Code.

That a Warrant of Arrest and Notice In Rem was issued on the 9th day of July, 1992, by the Honorable James O. Ellison, Chief Judge of the United States District Court for the Northern District of Oklahoma, as to the defendant real property, with buildings, appurtenances, and improvements.

That the United States Marshals Service personally served a copy of the Complaint for Forfeiture In Rem and the Warrant of Arrest and Notice In Rem on the defendant real property, its buildings, appurtenances, and improvements on the 10th day of August, 1992.

That the following individuals and entities were determined to be potential claimants in this action with possible standing to file a claim herein:

Catherine Irene Napier

**A. J. Whitmore, II,
a/k/a Andrew Jackson Whitmore
and A. J. Whitmore**

**Joe Paul Robertson,
Individually and as
Trustee of the
Joe Paul Robertson Trust**

**County Treasurer of
Wagoner County, Oklahoma**

That the United States Marshals personally served the following persons and entities having a potential interest in this action, to-wit:

A. J. Whitmore, II,
a/k/a Andrew Jackson Whitmore
and A. J. Whitmore

Served July 31, 1992

Joe Paul Robertson,
Individually and as
Trustee of the
Joe Paul Robertson Trust

Served Aug. 10, 1992

County Treasurer of
Wagoner County, Oklahoma

Served Aug. 10, 1992

That USMS Forms 285 reflecting the services set forth above are on file herein.

That the United States Marshals Service was unable to effect service upon Catherine Irene Napier and that due diligence and searching by the Federal Bureau of Investigation and the United States Marshals Service failed to provide an address where Catherine Irene Napier could be served.

That all persons interested in the defendant real property hereinafter described were required to file their claims herein within ten (10) days after service upon them of the Warrant of Arrest and Notice In Rem, publication of the Notice of Arrest and Seizure, or actual notice of this action, whichever occurred first, and were required to file their answer(s) to the Complaint within twenty (20) days after filing their respective claims.

That the defendant real property, its buildings, appurtenances, and improvements upon which personal service was

effectuated more than thirty (30) days ago has failed to file a claim or answer, as directed in the Warrant of Arrest and Notice In Rem on file herein.

That the United States Marshals Service gave public notice of this action and arrest to all persons and entities by advertisement in the Tulsa Daily Commerce and Legal News, a newspaper of general circulation in the district in which this action is pending, on October 1, 8, and 15, 1992; and in the Wagoner Tribune, a newspaper of general circulation in the county where the defendant real property is located, on September 23 and 30 and October 7, 1992, and that Proof of Publication was filed of record herein on the 30th day of October, 1992.

That no claim in respect to the defendant real property has been filed with the Clerk of the Court, and no person has plead or otherwise defended in this suit as to said defendant real property, and the time for presenting claims and answers, or other pleadings, has expired; and, therefore, upon information and belief, default exists as to the defendant real property, its buildings, appurtenances, and improvements, and all persons and/or entities interested therein.

That no other claims, papers, pleadings, or other defenses have been filed by the defendant properties or any persons or entities having an interest therein.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following-described defendant real property:

The NE/4 of the NW/4 of Section 19, Township 17 North, Range 18 East of the Indian Meridian, Wagoner County, State of Oklahoma, containing 40.0 acres, according to the Government Survey Map,

its buildings, appurtenances, and improvements, and against all persons and/or entities having an interest in such property, and that said defendant real property, its buildings, appurtenances, and improvements be, and the same is, hereby forfeited to the United States of America for disposition by the United States Marshal according to law, and that no right, title, or interest shall exist in any other party.

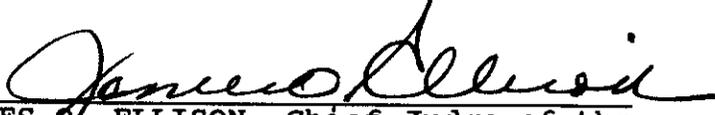
IT IS FURTHER ORDERED by the Court that the proceeds of the sale of the above-described real property, its buildings, appurtenances, and improvements, shall be distributed in the following priority:

a) First, for the payment to the United States of all expenses of forfeiture of the defendant real property, including, but not limited to expenses of seizure, custody, advertising, and sale.

b) Second, for payment of all real estate taxes owed on the property to date of sale, to the extent that the United States of America is responsible for said taxes.

c) Third, for payment to the United States of America of all amounts remaining after the above disbursements.

ENTERED this 2^d day of December, 1992.


JAMES O. ELLISON, Chief Judge of the
United States District Court for the
Northern District of Oklahoma

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney


CATHERINE J. DEPEW
Assistant United States Attorney

FBI SEIZURE NO: 3580-92-F-079

N: \UDD\CHOOK\FC\POWELL\WHITMORE\40AC\02540

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DEC 2 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,
Plaintiff,

v.

CIVIL ACTION NO. 92-C-035-E

ONE PARCEL OF REAL PROPERTY
KNOWN AS:

LOTS 4 AND 5,
CHEROKEE STRIP
SUBDIVISION,

IN SECTION 21, TOWNSHIP
17 NORTH, RANGE 19 EAST
OF THE INDIAN MERIDIAN,
WAGONER COUNTY, OKLAHOMA,
AND ALL BUILDINGS,
APPURTENANCES, AND
IMPROVEMENTS THEREON,

Defendant.

FILED ON DOCKET

DEC 3 1992

JUDGMENT OF FORFEITURE

This cause having come before this Court upon plaintiff's Application filed herein, and being otherwise fully apprised in the premises, the Court finds as follows:

That the verified Complaint for Forfeiture In Rem was filed in this action on the 16th day of January 1992; the Complaint alleges that the defendant real property, with buildings, appurtenances, and improvements is subject to forfeiture pursuant to Title 21 U.S.C. § 881(a)(6) because it was furnished, or was intended to be furnished, in exchange for a controlled substance.

That a Warrant of Arrest and Notice In Rem was issued on the 21st day of January 1992, by the Honorable James O. Ellison, Chief Judge of the United States District Court for the Northern District of Oklahoma, as to the defendant real property, its buildings, appurtenances, and improvements.

That the United States Marshals Service personally served a copy of the Complaint for Forfeiture In Rem and the Warrant of Arrest and Notice In Rem on the defendant real property, its buildings, appurtenances, and improvements on the 8th day of April 1992.

That the following individuals and entities were determined to be potential claimants in this action with possible standing to file a claim herein:

**A. J. Whitmore, II,
a/k/a Andrew Jackson Whitmore
and A. J. Whitmore**

A. J. Whitmore, III

Keith Cale

BILLY J. CHENHALL

DAVID L. HAMILTON

TILLMAN G. WELCH

**County Treasurer of
Wagoner County, Oklahoma**

That the United States Marshals personally served the following persons and entities having a potential interest in this action, to-wit:

A. J. Whitmore, II, Served April 7, 1992
a/k/a Andrew Jackson Whitmore
and A. J. Whitmore

A. J. Whitmore, III Served May 9, 1992
by Certified Mail

Keith Cale Served May 12, 1992
by Certified Mail

BILLY J. CHENHALL Served April 29, 1992

DAVID L. HAMILTON Served April 29, 1992

TILLMAN G. WELCH Served April 15, 1992

County Treasurer of Served April 8, 1992
Wagoner County, Oklahoma

That USMS Forms 285 reflecting the services set forth above are on file herein.

That all persons interested in the defendant real property hereinafter described were required to file their claims herein within ten (10) days after service upon them of the Warrant of Arrest and Notice In Rem, publication of the Notice of Arrest and Seizure, or actual notice of this action, whichever occurred first, and were required to file their answer(s) to the

Complaint within twenty (20) days after filing their respective claims.

That the defendant real property, its buildings, appurtenances, and improvements upon which personal service was effectuated more than thirty (30) days ago have failed to file its claim or answer, as directed in the Warrant of Arrest and Notice In Rem on file herein.

That the United States Marshals Service gave public notice of this action and arrest to all persons and entities by advertisement in the Tulsa Daily Commerce and Legal News, a newspaper of general circulation in the district in which this action is pending, on June 11, 18, and 25, 1992; and in the Wagoner Tribune, a newspaper of general circulation in the county where the defendant real property is located, on June 10, 17, and 24, 1992, and that Proof of Publication was filed of record herein on the 8th day of October, 1992.

That no claim in respect to the defendant real property has been filed with the Clerk of the Court, and no person has plead or otherwise defended in this suit as to said defendant real property, and the time for presenting claims and answers, or other pleadings, has expired; and, therefore, upon information and belief, default exists as to the defendant real property, its buildings, appurtenances, and improvements, and all persons and/or entities interested therein.

That no other claims, papers, pleadings, or other defenses have been filed by the defendant property or any persons or entities having an interest therein.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following-described defendant real property:

**Lots 4 and 5, CHEROKEE
STRIP SUBDIVISION, a
subdivision of part of
the SW/4 of the NW/4 of
the NE/4 of Section 21,
Township 17 North,
Range 19 East of the
Indian Meridian,
Wagoner County, State
of Oklahoma,**

its buildings, appurtenances, and improvements, and against all persons and/or entities having an interest in such property, and that said defendant real property, its buildings, appurtenances, and improvements be, and the same is, hereby forfeited to the United States of America for disposition by the United States Marshal according to law, and that no right, title, or interest shall exist in any other party.

IT IS FURTHER ORDERED by the Court that the proceeds of the sale of the above-described real property, its buildings, appurtenances, and improvements, shall be distributed in the following priority:

- a) First, for the payment to the United States of all expenses of forfeiture of the defendant real property, including, but not limited to expenses of seizure, custody, advertising, and sale.
- b) Second, for payment of all real estate taxes owed on the property to date of sale, to the extent that the United States of America is responsible for said taxes.
- c) Third, for payment to the United States of America of all amounts remaining after the above disbursements.

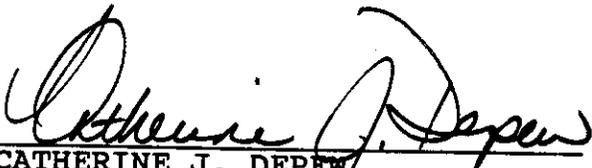
ENTERED this 2^d day of December, 1992.


JAMES O. ELLISON, Chief Judge of the
United States District Court for the
Northern District of Oklahoma

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney


CATHERINE J. DEPEW
Assistant United States Attorney

FBI SEIZURE NO: 3580-92-F-027

N:\UDD\CHOOK\FC\POWELL\WHITMORE\CHEROKEE\02544

ENTERED ON DOCKET
DEC 03 1992
FILED
DEC -2 1992

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

BRENT CARROLL,

Plaintiff,

vs.

HOWARD & WIDDOWS, P.C., an
Oklahoma Professional
Corporation, and JOHN W. HUNT,

Defendants.

RICHARD M. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK
Case No. 91-C-132-B

SATISFACTION OF JUDGMENT
AND DISMISSAL WITH PREJUDICE

Defendants, HOWARD & WIDDOWS, P.C., an Oklahoma Professional Corporation, herein in Satisfaction of the Amended Judgment entered by this Court in the instant case, on or about October 30, 1992, tender to the Plaintiff, BRENT CARROLL, the following sums:

1. The amount of Four Hundred Two Dollars and 48/100 (\$402.48) for court costs adjudicated in this matter, and
2. The amount of Nineteen Thousand Two Hundred Fifty Dollars and 83/100 (\$19,250.83) as actual damages in the judgment amount.

The total amount then being tendered to the Plaintiff, BRENT CARROLL, is Nineteen Thousand Six Hundred Fifty Three Dollars and 31/100 (\$19,653.31).

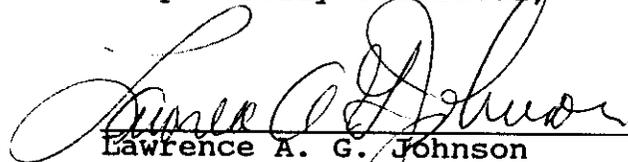
Plaintiff, BRENT CARROLL, herein acknowledges receipt of the sum of Nineteen Thousand Six Hundred Fifty Three Dollars and 31/100 (\$19,653.31) as Satisfaction of the Amended Judgment entered by this Court on or about October 30, 1992, as payment in full on that

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Judgment.

The parties hereto as indicated by signatures affixed below, them being Lawrence A. G. Johnson, Attorney for the Plaintiff and P. Gae Widdows, as representative of HOWARD & WIDDOWS, P.C., herein agree that Satisfaction of this Judgment also constitutes also a waiver of any rights of appeal that the parties may have. Further, by Satisfaction of this Judgment the parties agree that the matter shall be Dismissed with Prejudice.

Respectfully submitted,



Lawrence A. G. Johnson
Attorney for Plaintiff
2535 East 21st Street
Tulsa, OK 74114



P. Gae Widdows, OBA #9585
HOWARD AND WIDDOWS, P.C.
2021 South Lewis, Suite 470
Tulsa, OK 74104
(918) 744-7440

FILED
DEC 2 1992

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

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

DENNIS DEAN WRIGHT,)
)
 Petitioner,)
)
 vs.)
)
 STEPHEN KAISER,)
)
 Respondent.)

No. 92-C-514-E

ENTERED ON DOCKET
DATE DEC 3 1992

ORDER DENYING
CERTIFICATE OF PROBABLE CAUSE TO APPEAL

COMES NOW BEFORE THE COURT FOR CONSIDERATION Petitioners Application requesting issuance of a Certificate of Probable Cause for Appeal from this Court's Order granting Respondent's Motion to Dismiss dated the 27th of October, 1992 (docket #9); and Petitioner's Motion for Appointment of Counsel on Appeal (docket #12).

Title 28 U.S.C. §2253 provides that a person in state custody, who desires to appeal a federal court's order denying habeas corpus, must obtain a "certificate of probable cause" from the district court before (s)he appeals. The certificate of probable cause is a prerequisite to appeal of this Court's order.

A certificate of probable cause requires a petitioner to make a substantial showing that he has been denied a federal right. Barefoot v. Estelle, 463 U.S. 880, 893, 103 S.Ct. 3383, 3394 (1983). A petitioner must show more than that his appeal is made in good faith and is not frivolous. Id. (citing Blackmun, Allowance of In Forma Pauperis Appeals in §2255 and Habeas Corpus cases, 43 F.R.D. 343, 352 (1967)). The Supreme Court has quoted

13

the following standard to be used in determining whether to issue a certificate:

In requiring a 'question of some substance', or a 'substantial showing of the denial of [a] federal right', obviously the petitioner need not show that he should prevail on the merits. He has already failed in that endeavor. Rather, he must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are 'adequate to deserve encouragement to proceed further.'"

[emphasis theirs] 463 U.S. at 893, 103 S.Ct. at 3394 and n. 4 (quoting Gordon v. Willis, 516 F.Supp. 911, 913 (N.D. Ga. 1980)).

This Court finds that the issue of whether Petitioner Wright has abused the writ of habeas corpus could not be resolved by a court in a different manner than the manner in which it was resolved by this Court on October 27, 1992.

IT IS THEREFORE ORDERED that Petitioner Dennis Dean Wright's Application for certificate of probable cause for appeal is hereby denied, and Petitioner's Motion for Appointment of Counsel is consequently rendered moot.

ORDERED this 20 day of December, 1992.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

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

DEC 1 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ANR PIPELINE COMPANY

Plaintiff,

vs.

DYCO PETROLEUM CORPORATION

Defendant.

§
§
§
§
§
§
§
§

Case No. 90-C-872-E

ENTERED ON DOCKET
DATE **DEC 2 1992**

ORDER OF DISMISSAL WITH PREJUDICE

NOW ON this the 30th day of November, 1992, pursuant to the Joint Motion to Dismiss filed in this action, it is hereby **ORDERED, ADJUDGED, AND DECREED** that all claims, counterclaims and causes of action filed in this case are hereby dismissed with prejudice. Each party shall bear its own costs and attorneys' fees.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

ENTERED ON DOCKET
DATE DEC 2 1992

LEONARD NASH,

Plaintiff,

vs.

DR. MARGARET STRIPLING,
et al.

Defendants.

No. 92-C-006-E

FILED

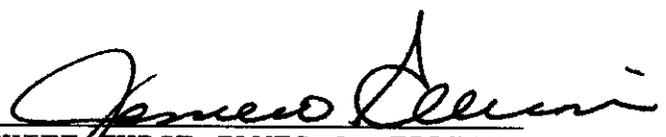
DEC 1 1992
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

O R D E R

The Court has for consideration the Report and Recommendation of the Magistrate filed October 22, 1992 (docket #40). After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court has concluded that the Report and Recommendation of the Magistrate should be and hereby are adopted by the Court.

IT IS THEREFORE ORDERED that the Motion of Defendant, Dr. Margaret Stripling, to Dismiss Plaintiff's Second Amended Civil Rights Complaint (Docket #15) and the Motion to Dismiss of Defendants Sheriff Stanley Glanz, Deputy Mark Mooney, Deputy Randy Stratton, Dr. Louis J. Hoogewind, and Susan Lee Esmond, L.R.N. (Docket #27) is hereby granted.

ORDERED this 30th day of November, 1992.


CHIEF JUDGE JAMES O. ELLISON
UNITED STATES DISTRICT COURT

44

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

ENTERED ON DOCKET
DATE DEC. 2 1992

RALPH L. LEADERBRAND, et al.,)
)
Plaintiffs,)
)
vs.)
)
BOARD OF COUNTY COMMISSIONERS)
OF THE COUNTY OF TULSA,)
OKLAHOMA, et al.,)
)
Defendants.)

No. 92-C-583-E

FILED

DEC 1 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

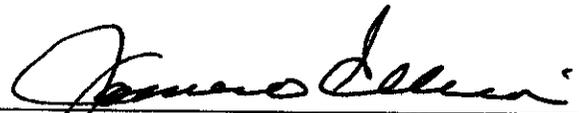
O R D E R

NOW on this 30th day of November, 1992 comes on for consideration the above-styled case and the Court, being fully advised in the premises finds:

Before the Court for consideration is the application of Plaintiffs for award of attorney's fees. No response to Plaintiff's application has been filed pursuant to Local Rule 15a. The Court finds that Plaintiff's affidavit in support of the application for award of attorney's fees is sufficient to satisfy the standards set forth in Ramos v. Lamm, 713 F.2d 546 (10th Cir. 1983), and that a hearing on the award of attorney's fees is not necessary. The Court finds that Plaintiff's application for award of attorney's fees should be and the same is hereby granted.

IT IS THEREFORE ORDERED that Plaintiffs be awarded attorney's fees in the amount of \$3,127.50.

ORDERED this 30th day of November, 1992.



JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

25

FILED

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

DEC 1 1992

Richard M. Lawton, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 ONE 1985 CHEVROLET VAN,)
 VIN 2GCCG15H6F4135993,)
)
 Defendant.)

CIVIL ACTION NO. 92-C-493-E

ENTERED ON DOCKET
DEC 2 1992

JUDGMENT OF FORFEITURE

This cause having come before this Court upon Plaintiff's Application filed herein, and being otherwise fully apprised in the premises, the Court finds as follows:

That the verified Complaint for Forfeiture In Rem was filed in this action on the 5th day of June 1992; the Complaint alleges that the defendant property is subject to forfeiture pursuant to Title 21 U.S.C. § 881(a)(4) because it was used, or was intended to be used, to facilitate a violation of the drug control laws of the United States, Title 21 United States Code.

That a Warrant of Arrest and Notice In Rem was issued on the 8th day of June 1992, by the Clerk of this Court as to the defendant vehicle.

That the United States Marshals Service personally served a copy of the Complaint for Forfeiture In Rem and the Warrant of Arrest and Notice In Rem on the defendant vehicle, on the 9th day of June 1992.

That USMS Form 285 reflecting service on the above-described defendant vehicle is on file herein.

That USMS Form 285 reflecting service on Ruben Arredondo-Gomez by service on Robert L. Rascia, his attorney, is on file herein.

That all persons interested in the defendant vehicle, hereinafter described, if any, were required to file their claims herein within ten (10) days after service upon them of the Warrant of Arrest and Notice In Rem, publication of the Notice of Arrest and Seizure, or actual notice of this action, whichever occurred first, and were required to file their answer(s) to the Complaint within twenty (20) days after filing their respective claims.

That the defendant vehicle upon which personal service was effectuated more than thirty (30) days ago has failed to file a claim or answer, as directed in the Warrant of Arrest and Notice In Rem on file herein.

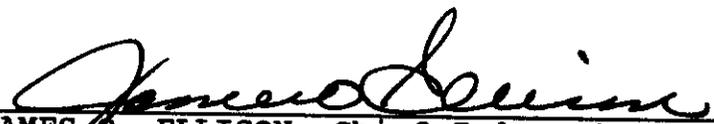
That the United States Marshals Service gave public notice of this action and arrest to all persons and entities by advertisement in the Tulsa Daily Commerce & Legal News on July 23 and 30 and August 6, 1992; and that Proof of Publication was filed of record on August 27, 1992.

That no other claims, papers, pleadings, or other defenses have been filed by the defendant vehicle or any persons or entities having an interest therein.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following-described defendant vehicle:

ONE 1985 CHEVROLET VAN,
VIN 2GCCG15H6F4135993,

and against all persons and/or entities, if any, having an interest in such vehicle, and that said defendant vehicle be, and the same is, hereby forfeited to the United States of America for disposition by the United States Marshal according to law, and that no right, title, or interest shall exist in any other party.


JAMES O. ELLISON, Chief Judge of the
United States District Court for the
Northern District of Oklahoma

APPROVED:


CATHERINE J. DEREW,
Assistant United States Attorney

CJD/ch

FBI SEIZURE NO.: 3580-92-F-004

N: \UDD\CHOOK\FC\ARREDON1\02536

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

FILED
DEC 1 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MARY A. YERKEY,
Plaintiff,
vs.
ST. JOHN'S MEDICAL CENTER,
Defendant.

No. 92-C-167-E ✓

ENTERED ON DOCKET
DATE DEC 2 1992

ORDER OF DISMISSAL

On the 30th day of September, 1992, Plaintiff and Defendant filed a Dismissal Without Prejudice herein. Accordingly, the Court finds that the matter should be dismissed and it is

So ORDERED this 30th day of November, 1992.



JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

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

FILED

DEC 1 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FRANKIE ANN FOWLER,)
)
Plaintiff,)
)
v.)
)
LOUIS W. SULLIVAN, M.D.,)
SECRETARY OF HEALTH AND)
HUMAN SERVICES,)
)
Defendant.)

91-C-827-E

ENTERED ON DOCKET
DEC 2 1992
DATE

ORDER

The court has for consideration the Findings and Recommendations of the Magistrate Judge filed October 22, 1992, in which the Magistrate Judge recommended that the Secretary's decision be affirmed. 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.

The ALJ's decision that plaintiff is not disabled is supported by substantial evidence and is a correct application of the pertinent regulations. It is therefore Ordered that the decision that plaintiff is not entitled to disability insurance benefits disabled under the Social Security Act at any time through her date last insured is affirmed.

Dated this 30th day of November, 1992.


JAMES O. ELLISON, CHIEF
UNITED STATES DISTRICT JUDGE

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

FILED

NOV 30 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

THE STANDARD FIRE INSURANCE)
COMPANY, a Connecticut)
Company,)
)
Plaintiff,)
)
-vs-)
)
BODILY, INC., a Kansas)
Corporation,)
)
Defendant.)

CASE NO.: 92-C-196-E

ENTERED ON DOCKET
DEC. 2 1992

ORDER OF DEFAULT JUDGMENT

This cause came on for hearing on the motion of The Standard Fire Insurance Company, plaintiff in the above-entitled cause, for a default judgment, pursuant to Rule 55(b)(2), Federal Rules of Civil Procedure. The court, having reviewed the file, finds that the complaint in the above cause was filed in this court on the fifth day of March, 1992, that summons and complaint was duly served on the defendant Bodily Inc. on June 22, 1992 by service upon G. Brett Bodily, an officer or director of record under the laws of the State of Kansas, that no answer or other defense has been filed by the defendant, and that the Plaintiff is entitled to judgment by default.

Wherefore, it is hereby ordered, adjudged and decreed that the plaintiff, The Standard Fire Insurance Company, is granted judgment, by default, against the Defendant, Bodily, Inc. in the amount of Three Hundred, Eighty Six Thousand, Seven Hundred Twenty Nine and 87/100 Dollars (\$386,729.87) together with interest at the

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rate of 3.76% per annum on the unpaid balance from ~~March 5,~~ ^{December 2,} 1992,
for which let execution issue.

Dated this 30th day of November, 1992.


United States District Judge

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

DEC 02 1992

FILED

NOV 30 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

WILLIE FOUST, III, Deceased, By)
and Through His Natural Parents)
and Next of Kin, CHRISTINE FOUST)
(as Mother), and WILLIE FOUST,)
as his Father and Executor of)
THE ESTATE OF WILLIE FOUST, III,)
Deceased; and LENA SHAVERS, as the)
Parent and Next of Friend of)
RENATA FOUST, a Minor and Daughter)
of the Deceased,)

Plaintiffs,)

v.)

THE CITY OF MIDWEST CITY,)

Defendant.)

Case No. 91-C-0101-B

ORDER

By prior order filed November 4, 1992 the Court granted the Motion for Summary Judgment of Defendant, The City of Midwest City ("The City"). As to Plaintiffs' Section 1983 claims asserting the wrongful death of Willie Foust, III which occurred in February, 1989 while he was incarcerated as a prison inmate. Plaintiffs' Second Amended Complaint alleged an undated assault and battery by employees of The City occurring at some time prior to the deceased's confinement in the Oklahoma Department of Correction System. This Section 1983 assault and battery or excessive force claim was preserved for separate trial, as previously scheduled.

On November 16, 1992, the parties appeared and announced ready for trial. Defendant, The City, requested in open Court further consideration of the excessive force issue, noting that the undated reference to pre-incarceration events were never pled as a separate claim, and urging that allegations occurring prior to incarceration would necessarily be barred by the application of the statute of

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limitations, and would not survive the death under Oklahoma law.

The Court discussed the applicable dates with counsel for both parties, and offered the Plaintiffs an opportunity to dismiss the claim with prejudice, or to go to trial as scheduled. The Court declined Plaintiffs' request for a continuance. Plaintiffs' counsel declined to dismiss the claim with prejudice, but requested the Court to rule on the statute of limitations issue as a matter of law, based on stipulations of dates by the parties.

Plaintiffs and Defendant, The City, stipulated in open Court to the following:

a. The evidence which would be offered on behalf of Plaintiff to support the allegation of excessive force would be that the incident occurred in either 1987 or 1988, and not later than July, 1988.

b. No claim or cause of action was commenced asserting a Section 1983 claim for the alleged excessive force incident prior to the filing of this case on February 19, 1991, and no specific reference to the incident was asserted prior to the Second Amended Complaint filed on November 14, 1991.

The request of both parties to decide the remaining issue as a matter of law on the stipulated facts is granted. The Court concludes that the sole remaining Section 1983 issue of alleged assault and battery and excessive force is barred by the two-year statute of limitations under Oklahoma law. 12 O.S. §95; Meade v. Grubbs, 841 F.2d 1512 (10th Cir. 1988); Abbitt v. Franklin, 731 F.2d 661 (10th Cir. 1984).

Accordingly, The City's Motion for Judgment on this sole remaining issue is meritorious, and the same is hereby GRANTED. All issues as to all parties have now been decided by the Court, except for The City's request for costs and ^{TRB}~~attorney fees~~ which may be presented by separate Motion hereafter.

IT IS SO ORDERED this 30 day of November, 1992.

S/ THOMAS R. BRETT

THOMAS R. BRETT,
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

By: 
RONALD R. HUDSON, OBA #4444
CHRISTOPHER A. WOOD, OBA #12,936
HOLLOWAY, DOBSON, HUDSON & BACHMAN
One Leadership Square, Suite 900
211 North Robinson
Oklahoma City, Oklahoma 73102
(405) 235-8593

Attorneys for Defendant,
The City of Midwest City

ENTERED ON DOCKET

DATE DEC 02 1992

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

WILLIE FOUST, III, Deceased, by)
 and through his natural parents)
 and next of kin, CHRISTINE FOUST,)
 (as Mother), and WILLIE FOUST,)
 as his father and executor of)
 the Estate of Willie Foust, III,)
 Deceased; and LENA SHAVERS, as the)
 parent and next friend of)
 RENATA FOUST, a minor and daughter)
 of the deceased,)
)
 Plaintiffs,)
)
 v.)
)
 THE CITY OF MIDWEST CITY,)
)
 Defendant.)

FILED
 NOV 30 1992
 Richard M. Lawrence, Clerk
 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF OKLAHOMA

No. 91-C-0101-B ✓

J U D G M E N T

Pursuant to the orders of the Court of November 4, 1992, and the order filed contemporaneously herewith, Judgment is hereby entered in favor of the Defendant, City of Midwest City, and against the Plaintiffs, and the Plaintiffs' action is hereby dismissed. Costs are hereby awarded to the Defendant if timely applied for pursuant to Local Rule 6, and the parties are to pay their own respective attorney fees.

DATED this 30th day of November, 1992.


 THOMAS R. BRETT
 UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
DATE DEC 02 1992

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

RICHARD R. PARKER,

Plaintiff,

v.

FLINT INDUSTRIES VOLUNTARY
EMPLOYEE BENEFIT ASSOCIATION,
FLINT INDUSTRIES, INC., FLINT
STEEL CORPORATION, RETIREE
MEDICAL BENEFITS PLAN, and
FLINT INDUSTRIES, INC.,
WELFARE BENEFIT PLAN,

Defendants.

No. 91-C-926-B

FILED
NOV 30 1992
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

J U D G M E N T

In keeping with the Court's order sustaining the Defendants' motion for summary judgment pursuant to Fed.R.Civ.P. 56 filed contemporaneously herewith, Judgment is hereby entered in favor of the Defendants, Flint Industries Voluntary Employee Benefit Association, Flint Industries, Inc., Flint Steel Corporation, Retiree Medical Benefits Plan, and Flint Industries, Inc. Welfare Benefit Plan, and against the Plaintiff, Richard R. Parker, and Plaintiff's action is hereby dismissed. Costs are hereby awarded in favor of the Defendants and against the Plaintiff, if timely applied for pursuant to Local Rule 6, and each party is to pay their own respective attorney fees.

DATED this 30th day of Nov., 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

RICHARD R. PARKER,)
)
 Plaintiff,)
)
 v.)
)
 FLINT INDUSTRIES VOLUNTARY)
 EMPLOYEE BENEFIT ASSOCIATION,)
 FLINT INDUSTRIES, INC., FLINT)
 STEEL CORPORATION, RETIREE)
 MEDICAL BENEFITS PLAN, and)
 FLINT INDUSTRIES, INC.,)
 WELFARE BENEFIT PLAN,)
)
 Defendants.)

No. 91-C-926-B ✓

FILED
 NOV 30 1992
 Richard M. Lawrence, Clerk
 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF OKLAHOMA

ORDER SUSTAINING MOTION FOR SUMMARY JUDGMENT
PURSUANT TO FED.R.CIV.P. 56

Before the Court for decision is Defendants' Motion for Summary Judgment Pursuant to Fed.R.Civ.P. 56.

The undisputed material facts reveal that Plaintiff, after being employed by Flint Steel Corporation ("Flint Steel") as a union member from 1964 to 1981, retired during the month of his sixty-fifth birthday. Plaintiff claims that pursuant to a collective bargaining agreement between Flint Steel Corporation and the International Brotherhood of Boilermakers, Lodge No. 592, dated April 15, 1981 ("1981 CBA"), which makes reference to Flint's Employment Retirement Income Security Act (ERISA) welfare plan, he is entitled to lifetime medical benefits if he pays the annual premium. (Exhibit A to Plaintiff's Response to Motion for Summary Judgment).

The record discloses the following undisputed material facts concerning the Flint Industries Welfare Benefit Plan under ERISA of

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which the Retiree Medical Benefits Plan was a part. (Irvine Affidavit). The welfare plan was effective January 1, 1978, and retired employees of Flint Steel were covered thereunder. (Irvine Affidavit). Summary plan descriptions ("SPDs") effective January 1, 1984, were distributed to retirees, including Plaintiff as a participant. Prudential Insurance Company of America ("Prudential") administered the medical benefits plan, and Plaintiff paid 100% of the annual premium for such coverage. (Irvine Affidavit). Effective August 1, 1987, the participation of Flint Steel retirees was terminated. On or about May 26, 1987, the manager of benefits of Flint Industries, Inc. wrote Plaintiff and notified him that effective August 1, 1987, Flint Industries was changing its retiree plan, and that plan was no longer available. (Levine Affidavit, Exhibit 2). He was further advised that the plan available to him thereafter was the PruCare Senior Plan. The PruCare Senior Plan provided benefits to Plaintiff on an individual contract basis with Prudential and was not part of the Flint Welfare Plan. The Plaintiff enrolled in the PruCare Senior Plan on June 9, 1987. (Irvine Affidavit, Exhibit 3). By letter dated October 1, 1991, the manager of benefits of Flint Industries wrote Plaintiff and informed him that effective December 31, 1991, the PruCare Senior Plan would no longer continue to contract with the Medicare Program and that, therefore, the PruCare Senior Plan would not be available to him after that date. (Irvine Affidavit, Exhibit 5). The Plaintiff has not appealed any claimed improper denial of benefits as required by the terms of the retiree plan.

(Irvine Affidavit - see p. 25 of Part 22 of the ASA, Exhibit 1).

The parties concede that the 1981 collective bargaining agreement was effective for a three-year period from April 15, 1981, to April 15, 1984. (P. 4, Plaintiff's Response Brief filed October 19, 1992).

The parties in their respective briefs of legal authorities agree that any such alleged lifetime medical benefits must be in writing, incident to a binding agreement under ERISA. Page 5 of Plaintiff's response brief filed October 19, 1992, states:

"Federal law requires that a plan subject to ERISA be in writing. 29 U.S.C. § 1102...."

Thus, the Court must examine the written documents provided in the record for language supporting Plaintiff's claim.

Plaintiff also states that at the time of his retirement he was assured by officials of Flint Steel, Lehman and Heckenkemper, that he was entitled to medical benefits as a retiree. (No. 4, p. 2, Plaintiff's Response Brief filed October 19, 1992). Established authority provides that an ERISA plan cannot be modified orally, and that any amendment thereto must be in writing. Miller v. Coastal Corporation, 1992 WL 312219 (10th Cir. Kan. (October 30, 1992)), Bellino v. Schlumberger Technologies, Inc., 944 F.2d 26 (1st Cir. 1991); Frank v. Colt Industries, Inc., 910 F.2d 90 (3rd Cir. 1990); Perkins v. Time Insurance Company, 898 F.2d 470 (5th Cir. 1990); and Nachwalter v. Christie, 805 F.2d 956 (11th Cir. 1986).

Concerning Plaintiff's Complaint, in Plaintiff's supplemental responses to discovery requests (Exhibit A-8 to Defendants' Brief

in Support of Motion for Summary Judgment filed October 5, 1992),
Plaintiff states:

"'At all times material herein' indicates that at least from 1972 through 1981 Plaintiff was covered in his employment by contracts. Obviously, Plaintiff was not covered in his employment with Flint Steel after his retirement, although he remained the beneficiary of contracts which had been entered into."

The Employee Handbook concerning continuing medical coverage upon retirement provides:

"If you retire on or after the effective date of this part of the plan, you will continue to be eligible for medical expense coverage for yourself and your dependents under the plan to the same extent as if you had not retired."
(Exhibit B to Plaintiff's Response to Motion for Summary Judgment filed October 19, 1992, p. M-8).

The plan takes into account applicability of Medicare by reducing any payment under the plan by an amount equal to what Medicare covers. (Exhibit B to Plaintiff's Response to Motion for Summary Judgment filed October 19, 1992, p. M-9).

At page 7 of the Plaintiff's Response to Motion for Summary Judgment filed October 19, 1992, Plaintiff states:

"Plaintiff acknowledges that neither the collective bargaining agreement nor the Employee Handbook addresses directly the issue of whether retiree benefits will continue until the retiree dies or whether they will continue until terminated at the unilateral discretion of the company."

Having made this concession, Plaintiff then argues the written documents contained ambiguities so parol evidence is appropriate to reveal the intent of the parties concerning lifetime retiree

medical benefits.

Pertinent references in the 1981 collective bargaining agreement are as follows (Plff's Ex. A to Response to Motion for Summary Judgment filed October 19, 1992):

"The Company is to provide a Welfare Plan covering insurance, accidental death and dismemberment benefits, hospital and surgical benefits as set out and in compliance with the Welfare Agreement signed by the Company and the Union. ... This Welfare Plan shall be considered as being a part and parcel of this Contract.

* * *

"It is agreed that the ... Welfare Plan will not be changed during the terms of this Contract. (Pages 32-33)

* * *

"If an employee retires at age 62 or between the ages of 62 and 65 he/she will be allowed to keep the Group Medical insurance until age 65. This insurance to be paid for jointly by the Company and the employee, the Company contributing fifty percent (50%) and the retiree contributing fifty percent (50%)."
(Emphasis added) (Page 33).

The undisputed material facts reveal that the Retiree Plan, as it applied to former employees of Flint Steel, including Plaintiff, was terminated effective August 1, 1987, and Plaintiff was so notified in writing.

Local Rule 15B provides that if an undisputed material fact is not disputed by the nonmoving party by reference to the record

creating an issue of fact, the undisputed fact will be admitted.¹ Uncontroverted material fact No. 17 in Defendants' Brief in Support of Motion for Summary Judgment filed October 5, 1992, on page 3 states:

"In the summer of 1987, Plaintiff's wife was concerned that it appeared her husband would not have any retiree medical benefits, and either she or her husband requested documents from the Department of Labor including the following exhibits to her and her husband's depositions: Exhibit 4 (DOL letter in reply to inquiry concerning welfare benefits); Exhibit 14 (DOL letter to Mr. Parker); and Exhibit 15 ("What You Should Know About The Pension law"). Exhibit 4 expressly points out that 'ERISA does not prohibit a welfare benefit plan from terminating or imposing a decrease in benefits and/or the amount payable for such benefits.' Mrs. Parker Depo. p. 53, ll. 16-21, p. 55, l. 7-p. 56, l.10, p. 56, l. 17-p. 57, l. 15, p. 58, l. 6-p. 59, l. 25 (exhibits referenced are attached to Mr. Parker depo)."

Under ERISA, an employer has the right to amend or terminate a welfare benefits plan. See, Reichelt v. Emhart Corp., 921 F.2d 425 (2nd Cir. 1990), *cert. denied*, _____ U.S. _____, 111 S.Ct. 2854, 115 L.Ed.2d 1022 (1991); Adams v. Avondale Industries, Inc., 905 F.2d

¹Local Rule 15B provides in pertinent part: "Summary Judgment Motions. * * * The brief in opposition to a motion for summary judgment (or partial summary judgment) shall begin with a section which contains a concise statement of material facts as to which the party contends a genuine issue exists. Each fact in dispute shall be numbered, shall refer with particularity to those portions of the record upon which the opposing party relies, and, if applicable, shall state the number of the movant's fact that is disputed. All material facts set forth in the statement of the movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of the opposing party...."

943 (6th Cir.), *cert. denied*, _____ U.S. _____, 111 S.Ct. 517, 112 L.Ed.2d 529 (1990); and Ryan v. Chromalloy American Corp., 877 F.2d 598 (7th Cir. 1989). Also, the terms of the retiree plan expressly recite, under "Future of the Plan" that "[t]he Company hopes and expects to continue the Plan indefinitely but reserves the right to amend or discontinue it at any time." See p. 29 of the Retiree Plan, attached as Exhibit 8 to Mr. Parker's Deposition, and Part 22 of the ASA which is Exhibit "1" to Irvine Affidavit.

The Standard of Fed.R.Civ.P. 56
Motion for Summary Judgment

Summary judgment pursuant to Fed.R.Civ.P. 56 is appropriate where "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986); Windon Third Oil & Gas v. FDIC, 805 F.2d 342 (10th Cir. 1986). In Celotex, 477 U.S. at 317 (1986), it is stated:

"The plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial."

To survive a motion for summary judgment, nonmovant "must establish that there is a genuine issue of material facts..." Nonmovant "must do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita v. Zenith, 475 U.S. 574, 585 (1986). The evidence and inferences therefrom must be

viewed in a light most favorable to the nonmoving party. Conaway v. Smith, 853 F.2d 789, 792 n. 4 (10th Cir. 1988). Unless the Defendants can demonstrate their entitlement beyond a reasonable doubt, summary judgment must be denied. Norton v. Liddel, 620 F.2d 1375, 1381 (10th Cir. 1980).

A recent Tenth Circuit Court of Appeals decision in Committee for the First Amendment v. Campbell, 962 F.2d 1517 (10th Cir. 1992), concerning summary judgment states:

"Summary judgment is appropriate if 'there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law.' . . . Factual disputes about immaterial matters are irrelevant to a summary judgment determination. . . We view the evidence in a light most favorable to the nonmovant; however, it is not enough that the nonmovant's evidence be 'merely colorable' or anything short of 'significantly probative.' . . .

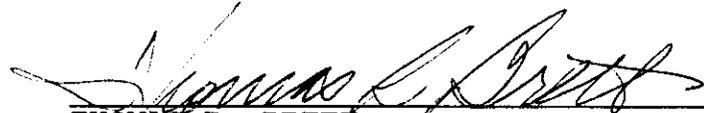
"A movant is not required to provide evidence negating an opponent's claim. . . . Rather, the burden is on the nonmovant, who 'must present affirmative evidence in order to defeat a properly supported motion for summary judgment.' . . . After the nonmovant has had a full opportunity to conduct discovery, this burden falls on the nonmovant even though the evidence probably is in possession of the movant. (citations omitted). *Id.* at 1521."

From a review of the record, the Court concludes that none of the relevant documents urged by Plaintiff create a binding legal obligation on the part of any of the Defendants to supply Plaintiff access to lifetime medical insurance. Neither is there an ambiguity therein. Thus, as no material issues of fact remain, summary judgment is granted Defendants against the Plaintiff pursuant to

Fed.R.Civ.P. 56.

Moreover, the Court concludes Plaintiff's damage claim under 29 U.S.C. § 1132(a)(1)(A) of ERISA for failure to produce documentary information lacks merit. Further, the Court hereby denies Defendants' Rule 11 sanctions request regarding fees and costs because within the Court's discretion the Court concludes Plaintiff's conduct and that of his counsel do not warrant award of same herein.²

DATED this 30th day of Nov., 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

²The Court has not addressed specifically Defendants' claim that Plaintiff failed to exhaust administrative remedies, and further that the various Defendants are not subject to ERISA personal liability because the Court has concluded the matter on the merits as aforesaid.

Entered
CLOSED

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

FILED

SEP 17 1992

RICHARD M. HANCOCK, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

HARRY ROBINSON and KAY)
ROBINSON, husband and wife,)
et al.,)
)
Plaintiffs,)
)
vs.)
)
AUDI AKTIENGESELLSCHAFT,)
f/k/a AUDI NSU AUTO UNION)
AKTIENGESELLSCHAFT, a foreign)
corporation, et al.,)
)
Defendants.)

No. 88-C-367-E

EOD 12/1/92

ORDER AND JUDGMENT

This matter is before the Court as an action to Set Aside the Judgment entered in the underlying case (case no. 80-C-85-E) on the grounds of fraud upon the Court, Rule 60(b) Fed.R.Civ.P. The procedural history of this case has been well-documented in the record and a lengthy exposition of it here is unnecessary. It will suffice to say that the initial lawsuit, brought in state court, arose from grievous injuries suffered in a tragic automobile accident, a rear-end collision, which occurred on an Oklahoma highway in 1977. The collision precipitated a fire in Plaintiffs' 1976 Audi 100 LS, severely burning the occupants. Plaintiffs alleged in the state court suit that the gas tank of the Audi was defectively designed. It was Defendants' position that the speed of the oncoming Ford Torino (estimated to be approximately 90 m.p.h.) which collided with Plaintiffs' Audi (traveling at some 55 m.p.h.) and not the design of the Audi's fuel system caused the

punctured gas tank, fire and ensuing injuries. The case was removed to federal court where a jury returned a verdict for Defendants in 1981. The case was appealed twice to the Circuit. In Robinson v. Audi NSU Auto Union, 739 F.2d 1481 (1984) the Court of Appeals held, inter alia, that it was reversible error for the trial court to exclude evidence that Volkswagen of America, Inc., as distributor, knew of the risk inherent in the gas tank system of the Audi 100. The Court declared the evidence, a 1968 NHTSA (National Highway Traffic Safety Administration) submission was an admission under Federal Rule of Evidence 801(d)(A) on the issue of strict liability. Id. at 488-489. The Circuit also ruled that the statements were attributable to Volkswagen of America but not to Audi because the statements were made on behalf of Volkswagenwerk Aktiengesellschaft, the German manufacturer, and because the statements pre-dated the agency relationship between Volkswagen of America and Audi NSU. Id. at 1487. On remand, this Court granted summary judgment in favor of Volkswagen of America pursuant to a, then, recent decision of the Oklahoma Supreme Court in Braden v. Hendricks, 695 P.2d 1343 (Okla. 1985). Braden held that a distributor is automatically exonerated in a strict liability action alleging a manufacturing defect if the automobile manufacturer is absolved. Upon Plaintiffs' second appeal to the Tenth Circuit, Robinson v. Volkswagen of America, Inc., 803 F.2d 572 (10th Cir. 1986) that judgment was affirmed.

The Plaintiffs have charged that a shocking ubiquity of fraud, on the part of Defendants, pervaded the case, thus denying

Plaintiffs their day in Court. The Court agreed to hear the matter as a Rule 60(b) issue. Briefs were submitted; a hearing was held June 1 - June 15, 1992; and, thereafter, the parties filed proposed Findings of Fact and Conclusions of Law. The Court heard argument on August 7, 1992 and the parties were, then, permitted to supplement the record.

In broad outline, Plaintiffs' assertions are as follows: that a pattern of prevarication and dissembling on the crucial issue of Volkswagen Aktiengesellschaft's true relationship to Audi NSU and its predecessor have characterized the case from its inception. Chronologically, they assert that upon the advice of Defendants' counsel, Myron Shapiro (by way of Defendants' local counsel), Plaintiffs' attorney dropped Volkswagen Aktiengesellschaft (VWAG) as a named party Defendant from the suit. See, Trial Exhibits 47, 55, 56; Trial Transcript p. 73: 7-12, 271:1-273:2. Plaintiffs charge that the scheme to dissemble continued through the pre-trial discovery phase of the underlying case when Jefferson Greer (Plaintiffs' attorney, at that stage of the case) sought to elicit information on the development of the Audi 100, the relationship between Audi NSU and VWAG and the corporate history of Audi NSU through interrogatories and, then, depositions. That effort was frustrated, say Plaintiffs, by a concerted effort (on the part of Defendants through their attorney, Mr. Shapiro) of non-disclosure and misinformation.¹ Plaintiffs charge that the subterfuge

¹See, Trial Transcript, pp. 273:23-274:13; 273:15-274:14; 276:20-23; 865:18-23; 158:13-24; 257:21-258:2; 260:13-15; 189:7-190:25; 193:24-194:17; 277:9-278:8; 282:1-5; 277:2-8; 279:9-15;

proceeded apace during the trial when Mr. Shapiro made misleading, incomplete and/or untruthful representations to this Court regarding the corporate relationship between VWAG and Audi NSU (and its predecessor, Auto Union). In the alternative, Plaintiffs allege that Mr. Shapiro was less than honest about his knowledge of that relationship.² Plaintiffs assert that based upon these alleged misrepresentations, the Court excluded the NHTSA submissions identified above. Plaintiffs assert that Mr. Shapiro's testimony during the June, 1992 hearing casts an even deeper shadow on his credibility.³ In sum, Plaintiffs argue that the evidence adduced establishes a scheme to suppress information vital to its case as it pertains to the corporate relationships and, therefore, imputed knowledge of Audi NSU vis 'a vis the allegedly defective design of the gas tank and fuel system of the Audi 100 LS.

413:23-417:9; 274:15-17; 162:7-19; 740:13-741:16; 174:20-175:24; 189:17-192:7; 234:17-19; 243:1-17; 740:13-24; 282:1-5; 444:22-447:17; 762:1-4; 809:3-6; 762:4-6; 451:1-6; 510:1-518:7; 532:14-537:17; 649:2-12; 985:1-24; 862:22-863:7; 865:16-23; 974:4-988:7; 992:18-993:4; 963:2-967:16; 282:1-5; 100:18-21; 101:10-14; 102:6-14; and Trial Exhibits 99 (pp. 30, 32-39, 71, 98-99); 044; 046; 058; 048; 050; 064; 069; 066; 067 (p. 5); 59; 65; 57.

²See, Trial Transcript pp. 130-135; 305:10-17; 338:20-341:20; 304:22-24; 305:6-7; 325:4-5; 325:15-18; 339:1-5; 339:14-340:15; 340:22-341:3; 341:18-20; 344:15-24; 514:1-12; 498:4-25; 554:16-18; 554:10-557:7; and Trial Exhibit 001; 1001.

³See, e.g., Trial Transcript pp. 682:5-14; 483:11-484:1; 1085:6-21; and Trial Exhibits 80,099 (p. 156:3-24); see, also, Trial Transcript pp. 786; 24-787:2; 438:5-18; 435:19-22; 437:23-438:18; 777:23-778:17; 788:8-795; 118:3-8; 118:11-119:7; 789:20-793:12; 1055:1-1064:5; 1066:15-1067:16; 1114:15-18; 1114: 1-1117:11; 1117:4-7; 1117:21-22; 791:22-792:5; 1119:12-1120:24; 1067:10-16; 1116:5-1117:11; 1053:4-7; 1052:9-13; 1106:18-1109:11; and Trial Exhibits 73 (pp. 7, 11, 27-28); 105; 106; 221 for identification; 1162.

Rule 60(b) provides, in part, for relief from judgment on the grounds of mistake or excusable neglect; newly discovered evidence; fraud, misrepresentation or other misconduct of adverse party if the action is brought within one year after the judgment is entered. It also provides a savings clause: "this rule does not limit the power of a court to entertain an independent action ... to set aside a judgment for fraud upon the court." Rule 60(b). Based upon the one year rule, this Court's inquiry will not encompass fraud and/or misrepresentation, generally, but will be strictly limited to the savings clause issue of fraud upon the Court.

At the outset it is imperative to describe what manner of beast is a "fraud on the court" and to identify the degree of proof by which it must be shown. It is therefore instructive to begin with relevant case law. The progenitor of fraud on the court cases is Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 64 S.Ct. 997 (1944); rehearing denied, 322 U.S. 772, 64 S.Ct. 1281 (1944). There, the Supreme Court invoked common law and held that in spite of "the deeply rooted policy in favor of repose of judgments" there were no time limitations imposed on the power of the Court to set aside a judgment procured by a fraud upon the court. Id. 64 S.Ct. 1000. In that case, the Court found a "deliberately planned and carefully executed scheme [by an attorney: an officer of the Court] to defraud not only the Patent Office but the Circuit Court of Appeals." Id. Cases brought following adoption of Rule 60(b), as amended in 1946, continue to

rely on the reasoning set forth in Hazel-Atlas: that a charge of fraud on the Court must be evidenced by the most egregious assaults on the judicial machinery. For an analysis of the evolution of that rule, see Averbach v. Rival Manufacturing Co., 809 F.2d 1016, 1020-1022 (3rd Cir. 1987). In United States v. International Telephone & Telegraph Corp, 349 F.Supp. 22, 29 (D. Conn. 1972), aff'd without opinion, 410 U.S. 919, 93 S.Ct. 1363, 35 L.Ed.2d 582 (1973), the district court opined:

Generally speaking, only the most egregious misconduct, such as bribery of a judge or members of a jury, or the fabrication of evidence by a party in which an attorney is implicated, will constitute fraud on the court ... Less egregious misconduct such as nondisclosure to the court of facts allegedly pertinent to the matter before it, will not ordinarily rise to the level of fraud on the court ... (citations omitted).

Moreover, the requisite misconduct must be shown by a high degree of proof. One who asserts 60(b) fraud has the burden of proving it by clear and convincing evidence. Ervin v. Wilkinson, 701 F.2d 59 (7th Cir. 1983); Harris v. Mapp, 719 F.Supp. 1317 (E.D. Va. 1989); Rozier v. Ford Motor Co., 573 F.2d 1332 (5th Cir. 1978), rehearing denied (1978).

In Bulloch v. United States, 95 F.R.D. 123 (D. Utah 1985) sheep owners sued the government for damages allegedly resulting from atmospheric testing. The judgment in favor of the government was set aside for fraud upon the Court. In reversing, the Tenth Circuit held that information allegedly withheld by the government was available to the plaintiffs in the original action. Bulloch v. United States, 763 F.2d 1115, 1118 (10th Cir. 1985). In so ruling,

the Circuit declared:

This case demonstrates the very good reasons why judgments should be final and should not be disturbed. The plaintiffs to prevail must have shown by clear and convincing evidence that there was a fraud on the court, and all doubts must be resolved in favor of the finality of the judgment.

Id. at 1121 (emphasis added). The Court went on to explicate the rule:

Fraud on the court ... is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. It has been held that allegations of nondisclosure in pretrial discovery will not support an action for fraud on the court... It is thus fraud where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function - thus where the impartial functions of the court have been directly corrupted.

Id. at 1121 (citations omitted). Thus, our Circuit has spoken. And the Fifth Circuit has declared, "The mere nondisclosure to an adverse party and to the court of facts pertinent to a controversy before the court does not add up to 'fraud upon the court' for purposes of vacating a judgment under Rule 60(b)." Kerwit Medical Products, Inc. v. N & H Instruments, Inc., 616 F.2d 833, 837 (5th Cir. 1980) quoted in, Wilson v. Johns-Manville Sales Corp., 873 F.2d 869, 872 (5th Cir. 1989). In Wilson defendants failure to disclosure the fact that they knew the dangers of asbestos for literally decades was not grounds for a 60(b), fraud on the court, claim. Id. 871, 873.

And in Gleason v. Jandrucko, 860 F.2d 556 (2nd Cir. 1988) the

Second Circuit ruled that neither perjury of a witness nor non-disclosure during pre-trial discovery will support a claim under the 60(b) savings clause. Id. at 559.

Perjury and fabricated evidence are evils that can and should be exposed at trial, and the legal system encourages and expects litigants to root them out as early as possible.

Great Coastal Express, Inc. v. International Brotherhood of Teamsters, 675 F.2d 1349, 1357 (4th Cir. 1982), cert. denied, 459 U.S. 1128, 103 S.Ct. 764 (1983), quoted in Gleason, at 560.

However, in certain circumstances, attorney misconduct may constitute a fraud upon the Court. While it is incumbent upon an attorney to

represent his client with singular loyalty, that loyalty obviously does not demand that he act dishonestly or fraudulently; on the contrary his loyalty to the court, as an officer thereof, demands integrity and honest dealing with the court. And when he departs from that standard in the conduct of a case, he perpetrates a fraud upon the court.

7 Moore, Federal Practice ¶60.33 at 513 (1971 ed.).

The seminal case finding sufficient proof of attorney misconduct amounting to fraud on the court is the Hazel Atlas case discussed above. There an attorney presented as an article written by an expert, a piece he had himself written in support of his client's patented process. The article was submitted to the Third Circuit as authority for his client's position in a patent infringement case. Id. 322 U.S. 240, 41; 64 S.Ct. 998-999. The Court found the attorney was implicated in "a deliberately planned and carefully executed scheme" which amounted to a fraud upon the

Court. Id. 64 S.Ct. 1000. By contrast, in Kupferman v. Consolidated Research & Mfg. Corp., 459 F.2d 1072 (2d. Cir. 1972) the failure of an attorney of an underwriter's receiver to notify the court of a release executed by the underwriter was susceptible of two different interpretations; therefore fraud on the court premised upon attorney misconduct would not lie.

And in S.E.C. v. ESM Group, Inc., 835 F.2d 270 (11th Cir. 1988) the court held that even if an investor's attorney was aware of his client's "massive securities fraud" prior to judgment, his failure to disclose the information which would certainly have been beneficial to the opposing party, did not amount to fraud on the court. Absent a showing that the attorney assisted in the securities fraud, the court declined to find a 60(b) situation. Id. at 274.

Finally, in H. K. Porter Co., Inc. v. Goodyear Tire & Rubber Co., 536 F.2d 1115 (1976) defendant alleged that plaintiff's attorneys were aware of and sponsored plaintiff's nondisclosure of discoverable and requested documents in violation of court order. The court found that the allegations were unsupported by the evidence.

The Court has reviewed the record and, most particularly, the evidence presented by Plaintiffs/Movants herein. Indeed, the Court was compelled to study in some depth the effective and exhaustive case prepared by Plaintiffs' counsel to ascertain its proper interface with the relevant law. As a preliminary matter, the Court must concede that had it been apprised of the material

contained in Plaintiffs' Proposed Findings of Fact and Conclusions of Law (FF/CL) filed July 27, 1992 at pp. 38-42 (nos. 53-55) the submissions exhibits at issue would most assuredly have been admitted into evidence. Indeed, it seems fair to say that if the relevant corporate relationships set forth in Plaintiffs' FF/CL, cited above had been on record, VWAG would have been joined as a party defendant. And the Court so finds. However, nowhere in this meticulously prepared and effectively argued claim does there appear clear and convincing evidence that Defendants' counsel was involved in a "deliberately planned and carefully executed scheme" to defraud this Court through misrepresentation and nondisclosure. In the absence of such evidence, the Court is bound by the relevant case law to deny Plaintiffs' Motion. This case is, accordingly, dismissed.

ORDERED this 17th day of September, 1992.



JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

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

FILED

NOV 30 1992

Monica M. [unclear] Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

GLADYS FAYE DUTTON and
BECKY L. DUTTON,

Plaintiffs,

vs.

SIMMONS INDUSTRIES, INC.,
an Arkansas Corporation,

Defendant.

No. 92-C-699-E

ENTERED ON DOCKET
DATE DEC 1 1992

ORDER

ON this 30th day of November, 1992, upon the written application of the Plaintiffs, Gladys Faye Dutton and Becky L. Dutton, and the Defendant, Simmons Industries, Inc., for a dismissal with prejudice of the Complaint of Dutton v. Simmons, 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 to the best interest of the Plaintiffs.

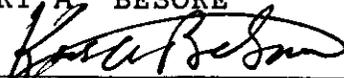
The Court further finds that said Complaint in Dutton v. Simmons, should be dismissed pursuant to said application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiffs, Gladys Faye Dutton and Becky L. Dutton, against the Defendant, Simmons Industries, Inc., be and the same hereby are dismissed with prejudice to any future action.


JUDGE OF THE U.S. DISTRICT COURT

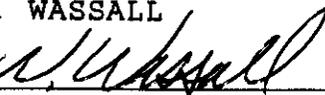
APPROVALS AS TO FORM AND CONTENT:

KORT A. BESORE



Attorney for Plaintiffs

RICHARD W. WASSALL



Attorney for Defendant

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

ENTERED ON DOCKET
DATE DEC 1 1992

IN RE:)
)
REPUBLIC FINANCIAL)
CORPORATION, an Oklahoma)
corporation,)
)
Debtor.)
)
R. DOBIE LANGENKAMP,)
Successor Trustee,)
)
Plaintiff-Appellee,)
)
vs.)
)
EMMA AND BILL TARPLEY,)
)
Defendant-)
Appellants.)

Case No. 84-01460-W
(Chapter 11)

FILE 1

NOV 30 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Adversary No. 86-757-C

Dist. Ct. No. 92-C-621-E

O R D E R

Comes now before the Court for its consideration, pursuant to Rule 41(a)(1)(ii) Fed.R.Civ.Proc., a Stipulation of Dismissal of the above appeal. After review of the record, the Court finds that said stipulation of dismissal should be granted.

IT IS THEREFORE ORDERED that said Stipulation of Dismissal is hereby GRANTED.

ORDERED this 30th day of November, 1992.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

DATE DEC 1 1992

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 92-C-33-E

SEVENTEEN PARCELS OF REAL
PROPERTY KNOWN AS:

BLOCK SIXTEEN (16); BLOCK
SEVENTEEN (17);

and

LOTS THIRTEEN (13) AND
FOURTEEN (14), IN BLOCK
NINETEEN (19);

and

LOTS ELEVEN (11), TWELVE (12),
THIRTEEN (13), FOURTEEN (14),
FIFTEEN (15), SIXTEEN (16),
SEVENTEEN (17), EIGHTEEN (18),
NINETEEN (19), AND TWENTY (20),
IN BLOCK TWENTY (20);

and

TRACTS "D," "E," AND "F,"
LESS AND EXCEPT THE INTEREST
OWNED BY GRDA,
ALL IN COATS ADDITION TO THE
TOWN OF STRANG, MAYES COUNTY,
OKLAHOMA,

Defendants.

FILED

NOV 30 1992

Richard M. LeWiston, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT OF FORFEITURE

This cause having come before this Court upon plaintiff's Application filed herein, and being otherwise fully apprised in the premises, the Court finds as follows:

That the verified Complaint for Forfeiture In Rem was filed in this action on the 15th day of January 1992; that thereafter an Amended Complaint for Forfeiture In Rem was filed herein on the 3rd day of March 1992, the Amended Complaint

alleging that the defendant real properties, with buildings, appurtenances, and improvements are subject to forfeiture pursuant to Title 21 U.S.C. § 881(a)(6) because they were furnished, or were intended to be furnished, in exchange for a controlled substance.

That a Warrant of Arrest and Notice In Rem was issued on the 22nd day of January, 1992, and that an Amended Warrant of Arrest and Notice In Rem was issued on the 6th day of March 1992, by the Honorable James O. Ellison, Chief Judge of the United States District Court for the Northern District of Oklahoma, as to the defendant real properties, with all buildings, appurtenances, and improvements thereon.

That the United States Marshals Service personally served a copy of the Amended Complaint for Forfeiture In Rem and the Amended Warrant of Arrest and Notice In Rem on the defendant real properties, with buildings, appurtenances, and improvements, on the 14th day of May 1992.

That the following individuals and entities were determined to be potential claimants in this action with possible standing to file a claim herein:

**Kenneth Neal Powell
a/k/a Kenneth N. Powell
and Keno Powell**

Judy A. Powell

Carl W. Longmire

**Phoenix Federal Savings & Loan
Association, now Cimarron Federal
Savings Association**

County Treasurer of Mayes County, Oklahoma

That the United States Marshals personally served the following persons and entities having an interest in this action, to-wit:

Kenneth Neal Powell Served March 23, 1992
a/k/a Kenneth N. Powell
and Keno Powell

Carl W. Longmire Served May 14, 1992

Phoenix Federal Savings Served March 19, 1992
& Loan Association, now
Cimarron Federal
Savings Association

County Treasurer of Served May 14, 1992
Mayes County, Oklahoma

That USMS Forms 285 reflecting the services set forth above are on file herein.

That the United States Marshals Service was unable to locate Judy A. Powell, and the case agents in this matter also were unable to locate Judy A. Powell.

That on August 12, 1992, the Mayes County Treasurer filed a Claim. Thereafter, plaintiff and the Claimant Mayes

County Treasurer entered into a Stipulation for payment to the Mayes County Treasurer of the sum of \$328.15 from the net proceeds of the sale of the defendant real property as and for ad valorem taxes due and owing against the defendant properties on the date of seizure. This Stipulation for Forfeiture was filed on November 24, 1992.

On March 30, 1992, Cimarron Federal Savings Association filed its claim. Thereafter on April 17, 1992, Cimarron Federal filed a Dismissal of Claim as well as a Disclaimer of interest in and to the defendant real properties.

That all persons interested in the defendant real properties hereinafter described were required to file their claims herein within ten (10) days after service upon them of the Warrant of Arrest and Notice In Rem. publication of the Notice of Arrest and Seizure, or actual notice of this action, whichever occurred first, and were required to file their answer(s) to the Complaint within twenty (20) days after filing their respective claims.

That all persons and entities upon whom personal service was effectuated more than thirty (30) days ago, except Cimarron Federal Savings Association and the County Treasurer of Mayes County, Oklahoma, have failed to file their respective claims or answers, as directed in the Warrant of Arrest and Notice In Rem on file herein.

That the United States Marshals Service gave public notice of this action and arrest to all persons and entities by advertisement in the Tulsa Daily Commerce and Legal News, a newspaper of general circulation in the district in which this action is pending, on June 11, 18, and 25, 1992; and in the Pryor Daily Times, a newspaper of general circulation in the county in which the defendant real properties are located, on June 11, 18, and 25, 1992, and that Proof of Publication was filed of record herein on the 16th day of July, 1992.

That Martin W. Rivers, a/k/a Martin Wayne Rivers, and Cynthia Rivers, the record owners of the above-described real properties, executed a Quit-Claim Deed to the United States of America prior to the filing of this action, and thereafter the plaintiff and the record owners entered into a Stipulation for Forfeiture, whereby Martin Wayne Rivers and Cynthia Rivers consented to the forfeiture of the defendant real properties. This Stipulation was filed herein on November 5, 1992.

That no other claims in respect to the defendant real properties have been filed with the Clerk of the Court, and no persons or entities, other than Cimarron Federal Savings Association and the County Treasurer of Mayes County, Oklahoma, have plead or otherwise defended in this suit as to said defendant real properties, and the time for presenting claims and answers, or other pleadings, has expired; and, therefore, upon information and belief, default exists as to the defendant real

properties, their buildings, appurtenances, and improvements, and all persons and/or entities interested therein.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following-described defendant real properties:

- a) Block Sixteen (16) in Coats Addition to the Town of Strang, Mayes County, State of Oklahoma, according to the Official Survey and Plat thereof, filed for record in the Office of the County Clerk of said County and State;
- b) Block Seventeen (17) in Coats Addition to the Town of Strang, Mayes County, State of Oklahoma, according to the Official Survey and Plat thereof, filed for record in the Office of the County Clerk of said County and State;
- c) Lots Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), and Twenty (20) in Block Twenty (20) of Coats Addition to the Town of Strang, Mayes County, State of Oklahoma, according to the recorded Survey and Plat thereof, filed for record in the Office of the County Clerk of said County and State. Said Lots lying and being entirely within the SE/4 of the SW/4 of the SE/4 of Section 2, Township 22 North, Range 20 East;
- d) Tracts "D" "E," and "F" in Coats Addition to the Town of Strang, Mayes County, Oklahoma, according to the official Recorded Survey

**and Plat thereof filed for record
in the office of the County Clerk
of said County and State;**

with buildings, appurtenances, and improvements, and against all persons and/or entities having an interest in such properties, and that said defendant real properties, their buildings, appurtenances, and improvements be, and the same are, hereby forfeited to the United States of America for disposition by the United States Marshal according to law, and that no right, title, or interest shall exist in any other party.

IT IS FURTHER ORDERED by the Court that the proceeds of the sale of the above-described defendant real properties, their buildings, appurtenances, and improvements, shall be distributed in the following priority:

- a) First, for the payment to the United States of all expenses of forfeiture of the defendant real property, including, but not limited to expenses of seizure, custody, advertising, and sale.
- b) Second, for payment to the County Treasurer of Mayes County, Oklahoma, of \$328.15 for ad valorem taxes due and owing.
- c) Third, for payment to the United States of America of all amounts remaining after the above disbursements.

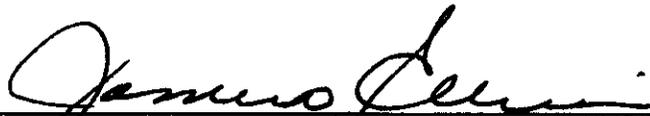
and Plat thereof filed for record
in the office of the County Clerk
of said County and State;

with buildings, appurtenances, and improvements, and against all persons and/or entities having an interest in such properties, and that said defendant real properties, their buildings, appurtenances, and improvements be, and the same are, hereby forfeited to the United States of America for disposition by the United States Marshal according to law, and that no right, title, or interest shall exist in any other party.

IT IS FURTHER ORDERED by the Court that the proceeds of the sale of the above-described defendant real properties, their buildings, appurtenances, and improvements, shall be distributed in the following priority:

- a) First, for the payment to the United States of all expenses of forfeiture of the defendant real property, including, but not limited to expenses of seizure, custody, advertising, and sale.
- b) Second, for payment to the County Treasurer of Mayes County, Oklahoma, of \$328.15 for ad valorem taxes due and owing.
- c) Third, for payment to the United States of America of all amounts remaining after the above disbursements.

ENTERED this 30th day of November, 1992.


JAMES O. ELLISON, Chief Judge of the
United States District Court for the
Northern District of Oklahoma

APPROVED:

A handwritten signature in cursive script, appearing to read "Catherine J. Depew". The signature is written in black ink and is positioned above a horizontal line.

CATHERINE J. DEPEW
Assistant United States Attorney

CJD/ch

FBI SEIZURE NO: 3580-92-F-079

N: \UDD\CHOOK\FC\POWELL\RIVERS\02548