

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

WEBSTER BUSINESS CREDIT CORPORATION

PLAINTIFF

V.

CASE NO. 08-CV-01083-RTD

BRADLEY LUMBER COMPANY, et al

DEFENDANTS

ARKANSAS DEVELOPMENT
FINANCE AUTHORITY

PLAINTIFF-INTERVENOR

v.

WEBSTER BUSINESS CREDIT
CORPORATION, et al

INTERVENOR DEFENDANTS

SUPPLEMENTAL ORDER AND DECREE OF FORECLOSURE

Now on this 5th day of *December*, 2012, the Court hereby supplements its previous orders, in light of the request of the United States Marshall Service, to facilitate completion of the foreclosure and sale of certain real property subject to the Court's Judgment of October 21, 2010, and ¶ 2(e)(iv) of the parties subsequent Settlement Agreement and Joint Stipulation For Dismissal. Doc 304:

1. That this Court has jurisdiction over the parties and subject matter.
2. That on October 21, 2010, the Court entered a Judgment against certain real property in favor of Intervenor Plaintiff, Arkansas Development Finance Authority

("ADFA"), in the amount of Two million Three Hundred Ninety-Eight Thousand Fifty-Three Dollars and no/100 (\$2,398,053.00), with interest accruing in the amount of \$196.30, until paid in full, plus attorney fees, costs and expenses incurred (the "Judgment") Doc 201 & 208.

3. That as a result of settlement of all claims, pursuant to ¶ 2(d)(iv) of the Settlement Agreement and Joint Stipulation For Dismissal of March 26, 2012 (Doc 304), A Plus Forrest Products, LLC ("A Plus"), as Oasis' assignee, retains the unconditional and absolute right to complete the foreclosure and sale of the subject real property described herein-below.

4. A Plus is now the true owner of the Judgment, together with all rights of the original judgment creditor ADFA, having paid good and valuable consideration for same as part of the Settlement.

5. As a result of said orders and assignment, A Plus now desires to sell the real property described below which is subject to the Judgment lien, in satisfaction of remaining sums owed under the Judgment:

Beginning at the Northwest Corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section 7, Township 13 South, Range 9 West, running thence South 89degrees 52'59" East along the North line of the said SE 1/4 NW 1/4 a distance of 1047.71 feet to the West side of the railroad track; thence South 9 degrees 11'11"

West along the West side of the said railroad tracks 1750.57 feet; thence South 11 degrees 43'41" West along the west side of said railroad track 551.96 feet; thence North 72 degrees 19'28" West 699.60 feet to the West line of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said section; thence North 00 degrees 05'57" East 739.77 feet to the Southwest Corner of said SE 1/4 NW 1/4; thence North 00 degrees 24'07" East 1318.54 feet to the Northwest Corner of the said SE 1/4 NW 1/4 and the point of beginning, containing 43.62 acres, more or less.

Commencing at the Southwest corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 7, Township 13 South, Range 9 West, running thence South 89 degrees 54'31" East along the South line of the *said* NE 1/4 SW 1/4 a distance of 674.54 feet to the East side of the railroad tracks for a point of beginning; thence continuing South 89 degrees 54'31" East 151.82 feet to the West side of Main Street; thence North 17 degrees 34'56" East along the West side of said Main Street 1054.13 feet; thence West 248.63 feet to the East side of the railroad tracks; thence South 9 degrees 11'11" West along the East side of said Railroad tracks 110.58 feet; thence South 11 degrees 43'49" West along the West side of said railroad tracks 561.34 feet; thence South 14 degrees 33'37" West along the West side of said railroad tracks 357.34 feet to the point of beginning, containing 4.43 acres, more or less;

LESS AND EXCEPT: Part of the Northeast Quarter of the Southwest Quarter of Section 7, Township 13 South, Range 9 West, Bradley County, Arkansas, more particularly described as follows: Starting at a Broken Brass Cap being used as the Center South Sixteenth corner of Section 7; thence North 89 degrees 39 minutes 38 seconds West along the South line of the Northeast Quarter of the Southwest

Quarter of Section 7 a distance of 509.14 feet to a point on the Westerly right of way line of U. S. Highway 63 as established by AHTD Job 7605 for the point of beginning; thence continue North 89 degrees 39 minutes 38 seconds West along the South line of the Northeast quarter of the Southwest Quarter of Section 7 a distance of 23.49 feet to a point on the Westerly right of way line of U. S. Highway 63 as established by AHTD Job 070230; thence North 13 degrees 49 minutes 18 seconds East along said right of way line a distance of 39.33 feet to a point; thence North 77 degrees 03 minutes 29 seconds East along said right of way line a distance of 27.07 feet to a point on the Westerly right of way line of U.S. Highway 63 as established by AHTD Job 7605; thence South 15 degrees 28 minutes 34 seconds West along said right of way line a distance of 46.06 feet to the point of beginning and containing 0.02 acres more or less as shown on plans prepared by the AHTD referenced as Job 070230.

And Also, Starting at a Broken Brass Cap being used as the Center South Sixteenth corner of Section 7; thence North 89 degrees 39 minutes 38 seconds West along the South line of the Northeast Quarter of the Southwest Quarter of Section 7 a distance of 509.14 feet to a point on the Westerly right of way line of U.S. Highway 63 as established by AHTD Job 7605; thence North 15 degrees 28 minutes 34 seconds East along said right of way line a distance of 106.28 feet to a point; thence North 18 degrees 10 minutes 22 seconds East along said right of way line a distance of 397.85 feet on the Westerly right of way line of U. S. Highway 63 as established by AHTD Job 070230 for the point of beginning; thence North 01 degrees 52 minutes 19 seconds West along said right of way line a distance of 38.33 feet to a point; thence North 20 degrees 21 minutes 26 seconds East along said right of way line a distance of 53.04 feet to a point; thence North 43 degrees 58 minutes 09 seconds East along said right of way line a distance of 25.54 feet to a point on the Westerly right of way line of U. S. Highway 63 as established by

AHTD Job 7605; thence South 18 degrees 10 minutes 22 seconds West along said right of way line a distance of 112.00 feet to the point of beginning and containing 0.02 acres more or less as shown on plans prepared by the AHTD referenced as Job 070230. Total exception containing 0.04 acres, more or less.

AND

LEGAL DESCRIPTION: Commencing at the Northwest corner of the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section 6, Township 13 South, Range 9 West, running thence South 87 degrees 53' 59"E 72.78 feet to the East Right-of-Way of Arkansas State Highway No.8 Overpass; thence South 00 degrees 19'24"West along said East R-0-W 69.14 feet to the Point of Beginning; thence South 88 degrees 42'48"East 160.0 feet; thence South 02 degrees 51'47"West 222.94 feet; thence South 07 degrees 48'39"East 438.14 feet; thence South 63 degrees 37'13"East 62.43 feet; thence South 07 degrees 13'17"West 204.24 feet; thence South 24 degrees 39'09"West 117.85 feet; thence South 30 degrees 02'55"West 234.56 feet to the said East R-0-W; thence North 5 degrees 26'32"East along said East R-0-W 33.40 feet; thence North 4 degrees 25'07"West along said East R-0-W 196.88 feet; thence North 11 degrees 45'58"West along said East R-0-W 159.89 feet; thence North 13 degrees 59'22"West along said East R-0-W 98.39 feet; thence North 01 degree 42'00"West along said East R-0-W 131.68 feet; thence North 00 degrees 01'38"East along said East R-0-W 587.66 feet to the Point of Beginning, containing 4.48 acres, more or less.

LEGAL DESCRIPTION: Commencing at the Northwest corner of the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section 6, Township 13 South, Range 9 West, running thence South 87 degrees 53' 59"E 72.78 feet to the East Right-of-Way of Arkansas State Highway No.8 Overpass; thence South 00 degrees 19'24"West along said East R-0-W

69.14 feet; thence South 88 degrees 42'48"East 227.91feet; thence North 2 degrees 14'40" West 128.08 feet; thence North 81degrees 52'38"East 47.76 feet to the Point of Beginning; thence South 88 degrees 48'10"East 172.98 feet; thence North 00 degrees 11'56"West 68.79 feet; thence North 89 degrees 56'31"East 77.96 feet; thence North 00 degrees 01'49"West 82.16 feet; thence South 89 degrees 58'48"East 45.79 feet; thence South 00 degrees 16'13"West 478.17 feet; thence South 89 degrees 44'13"East 109.78 feet; thence North 00 degrees 16'13"East 74.26 feet; thence South 89 degrees 10'45"East 543.94 feet to the West side of Fullerton Street; thence run the following courses and distances: South 10 degrees 40'50"East 116.90 feet; thence South 00 degrees 00'12"West 121.45 feet; thence South 00 degrees 58'42"West 354.05 feet; thence South 01degree 48'31"West 464.46 feet to the West side of Main Street; thence run the following courses and distances: South 31 degrees 25'27"West 1439.71 feet; thence South 30 degrees 36'24"West 125.88 feet; thence South 30 degrees 12'00"West 115.58 feet; thence South 28 degrees 48'54"West 166.18 feet; thence South 26 degrees 46'05"West 112.86 feet; thence South 25 degrees 51'29"West 146.02 feet; thence South 23 degrees 31'07"West 138.07 feet; thence South 22 degrees 13'06"West 113.56 feet to a brass cap monument; thence North 89 degrees 38'22"West 344.08 feet to the East R-0-W of said Overpass; thence run the following courses and distances: North 08 degrees 07'32"East 108.60 feet; thence North 80 degrees 48'16"West 3.00 feet; thence North 09 degrees 11'44"East 930.00 feet; thence North 20 degrees 53'36"East 154.26 feet; thence North 07 degrees 50'57"East 104.55 feet; thence North 14 degrees 54'38"East 419.64 feet; thence North 04 degrees 52'21"East 77.81 feet; thence North 03 degrees 15'05"East 164.70 feet; thence leaving said R-0-W North 31 degrees 01'56"East 348.46 feet; thence North 16 degrees 44'53"East 118.52 feet; thence North 07 degrees 04'24"East 141.58 feet; thence North 00 degrees 12'04"West 610.14 feet; thence North 04 degrees 40'34"West 280.49 feet

to the Point of Beginning, containing 58.48 acres, more or less.

6. Despite demands and notices, A Plus's judgment after partial satisfaction of \$2,105,055.98 on April 4, 2012, against the subject property, is as follows:

Principal Balance	\$292,997.62
Acc. Interest to 11/8/12	109,605.57
Attorney Fees & Costs	<u>119,749.60</u>
Total Due	<u>\$ 522,352.79</u>

7. That the Judgment lien and claims of A Plus, against the subject property, are superior to any and all other right, title, claims or interest in or to the property, as determined by the Court under its Orders of October 1, 2010 (Doc 201) and October 24, 2010 (Doc 208) with no other sums owed to any party as a result of the parties Settlement (Doc #304).¹

IT IS THEREFORE ORDERED AND DECREED:

1. That A Plus's *in rem* judgment against the real property described herein, shall be amended to \$402,603.19, including principal and interest accrued to November 8, 2012, together with attorney's fees and costs in the amount of \$119,749.60, for a total judgment amount of \$522,352.79, as of November 8, 2012. That said total amount shall bear interest from the date of judgment as allowed under the Judgment of this Court.

2. That the prayer of A Plus for a Decree of Foreclosure is hereby granted.

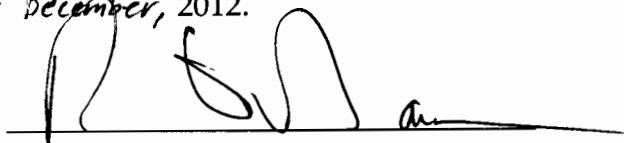
IT IS FURTHER ORDERED that if the Judgment of Plaintiff is not paid within ten (10) days from this date, then Dewaine Allen, United States Marshal for the Western District of Arkansas, shall advertise the time, place, and terms of judicial sale according to law and this decree, at least once weekly for four (4) weeks prior to sale in a newspaper having a general circulation in Ashley County, Arkansas, and he shall sell at public outcry, to the highest qualified bidder, at the main door of the United States Courthouse in El Dorado, Arkansas, on a credit of three (3) months, the property above described. The proceeds of this judicial sale shall be applied in the manner provided by law, to the judgment of A Plus Forrest Products, LLC, as the sole remaining interested party in the real property and Judgment. The purchaser at the Marshal's sale shall give bond with approved security to secure payment of the purchase price, and a lien shall be retained on the property to secure payment thereof. If A Plus purchases the property for an amount not in excess of its judgment and costs, which are hereby granted, it may credit the amount of its bid, less all court costs, upon the judgment, and need not give bond to secure the purchase price.

¹ All amounts owing to A Plus, are computed through November 8, 2012, and interest will accrue on said amounts after November 8, 2012.

IT IS FURTHER ORDERED that upon judicial sale of this property, and confirmation thereof by the Court, then all right, title and interest in and to said property, including any rights or possibility of curtesy, dower, homestead, appraisement and redemption are forever barred and FORECLOSED. Should the sale bring proceeds or credits in excess of A Plus Forrest Products, LLC's claim and costs, the Court reserves jurisdiction to determine the priority and amounts of any remaining claims.

IT IS FURTHER ORDERED that A Plus will provide the Court with a report confirming the judicial sale of the real property at issue, as well as an accounting of the final disposition of the proceeds of any sale/foreclosure. Once the Court receives this report, an order of final dismissal will be entered. Until such time, the Court retains jurisdiction to carry out and enforce the above findings.

IT IS SO ORDERED this 5th day of December, 2012.

A handwritten signature in black ink, appearing to read 'Robert T. Dawson', written over a horizontal line.

Hon. Robert T. Dawson
United States District Judge