

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

SPENCER ONDRISEK and
SETH CALAGNA

PLAINTIFFS

vs.

Civil No. 4:08-cv-04113

BERNIE LAZAR HOFFMAN a/k/a
TONY ALAMO

DEFENDANT

ORDER FOR SALE OF PROPERTIES SUBJECT TO THIRD WRIT OF EXECUTION

Before the Court is the Third Writ of Execution (ECF No. 351) entered in the above-styled and numbered cause. The Third Writ of Execution was entered on June 23, 2014. As stated in the Third Writ of Execution: “**Any person or entity asserting an ownership interest in the properties must do so in writing. Any and all claims of ownership in the properties must be received by the Court on or before August 4, 2014.**” ECF No. 351 at 2 (emphasis in the original). Despite this deadline, no written claims of ownership have been filed as to the real properties identified in the Third Writ of Execution. The date of August 4, 2014 has now passed. Because this deadline has passed with no claims being filed, these properties may be sold to satisfy the judgment against Defendant.¹

IT IS, THEREFORE, ORDERED that the U.S. Marshal’s Office shall immediately advertise and sell the following properties in accordance with Ark. Code Ann. §§ 16-66-401 to 16-66-507, and that the proceeds of the sale of each should be distributed first to the purchase money lienholder (if any) and then to Plaintiffs pursuant to Ark. Code Ann. § 16-66-203(b)(2):

¹ The Court has previously entered several fact-intensive orders related to Defendant and his properties. *See* ECF Nos. 200-201, 335-336. The Court will not restate these findings here; but to the extent they are relevant, they are also incorporated as a part of this order.

Sebastian County, Arkansas:

1. 2921 State Line Road, Fort Smith, Arkansas

Lot Six (6) State Line Addition to the City of Fort Smith, Sebastian County, Arkansas, being part of the Northwest Quarter of Section 29, Township 8 North, Range 32 West, according to the recorded plat thereof, filed April 16, 1985 (Also known as 2921 State Line Road).

2. 2909 State Line Road, Fort Smith, Arkansas

Part of the Northwest Fractional Quarter of Section 29, Township 8 North of Range 32 West, as follows:

Beginning at the point on the West line of said Northwest Quarter which is 400 feet South of the Northwest corner thereof; thence in an Easterly direction parallel to the North line of said NW 1/4 450 feet, more or less, to the East line of said NW 1/4; thence South along said line 100 feet; thence in a Westerly direction parallel to said North line 450 feet, more or less, to said West line, thence North along said West line 100 feet to point of beginning. Subject to all easements, covenants and restrictions. Subject to all previous reservations, exceptions and conveyances of oil, gas and other minerals. Subject to any oil and gas leases. Subject to all matters that would be shown by an accurate survey and inspection of the property.

3. 3808 Park Avenue, Fort Smith, Arkansas

Lot Three (3) in Block One (1) of L.B. Barry Addition to the City of Fort Smith, Sebastian County, Arkansas. (Also known as 3808 Park Avenue)

4. 1619 Grand Avenue, Fort Smith, Arkansas

Lot Eleven (11) in Block Four (4) of John Stryker Addition to the City of Fort Smith, Sebastian County, Arkansas. (Also known as 1619 Grand Ave.)

5. 1201 N. 11th Street, Fort Smith, Arkansas

Lot 12 Block 62, Original City of Fort Smith and part of Lot 1, Block 4, Foltz Addition No.1, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Beginning at a set p/k nail on the Southeast Comer of Lot 12, Block 62,

Original City of Fort Smith, same being on the North Right of Way line of L Street. Thence along the South line of said Lot 12, Block 62, Original City of Fort Smith and along the South line of Lot 1, Block 4, Foltz Addition No.1, and along said Right of Way line, South 89°50'45" West 160.90 feet. Thence leaving said Right of Way line and the South line of said Lot 1, North 50.00 feet to the North line of Lot 1, Block 4, Foltz Addition No.1. Thence along the North line of said Lot 1, and along the North line of Lot 12, Block 62, Original City of Fort Smith, North 89°50'45" East, 1609.90 feet to a set rebar on the Northeast Comer of said Lot 12 and the West Right of Way line of North 11th Street. Thence along the East line of said Lot 12 and along said Right of Way line, South 50.00 feet to the point of beginning. Subject to all easements, covenants, and restrictions. Subject to all previous reservations, exceptions and conveyances of oil, gas and other minerals. Subject to any oil and gas leases. Subject to all matters that would be shown by an accurate survey and inspection of the property.

6. 110 N. 16th Street, Fort Smith, Arkansas

Lot Three (3) in Block Twenty-nine (29) of Fitzgerald Addition to the City of Fort Smith, Sebastian County, Arkansas, according to plat filed July 1, 1905. (Also known as 110 North 16th Street.)

7. 301 S. 10th Street, Fort Smith, Arkansas

Lots 1,2,3, and 4, Block 562, Reserve Addition to the City of Fort Smith, Sebastian County, Arkansas, also known as 301 South 10th Street, Fort Smith, Arkansas.

8. 1108 S. 21st Street, Fort Smith, Arkansas

Lot 10, Block One Hundred Sixteen (116) of Fitzgerald Addition to the City of Fort Smith, Sebastian County, Arkansas, according to plat filed July 1, 1905. (Also known as 1108 S. 21st Street.)

9. 603 N. 14th Street, Fort Smith, Arkansas

Lot 12, Block 95, City Addition to the City of Fort Smith, Arkansas. Subject to all easements, covenants and restrictions. Subject to all previous reservations, exceptions and conveyances of oil, gas and other minerals.

Subject to any oil and gas leases. Subject to all matters that would be shown by an accurate survey and inspection of the property.

Miller County, Arkansas:

10. 301 Brown Road, Fouke, Arkansas

A part of the South Half of the Southwest Quarter (S 1/2 SW 1/4) of Section (15), Township Seventeen (17) South, Range Twenty-seven (27) West, Miller County, Arkansas, and being more particularly described as follows: COMMENCING at the point of intersection of the South line of said Section Fifteen (15) and the original West right-of-way line of U.S. Highway #71; THENCE North 36° 50' West, with said original West right-of-way of Highway #71, being 50 feet at right angles to existing centerline of said Highway #71, a distance of 674.00 feet; THENCE South 53° 10' West, perpendicular to said centerline and right-of-way of Highway #71, a distance of 560.00 feet to the Point of the Beginning; THENCE South 53° 10' West, 100.00 feet; THENCE South 89° 24' East, with said South line of Section Fifteen (15) and existing old fence, 100.00 feet THENCE North 04°,30' West, 190.00 feet to the Point of Beginning, and containing 0.336 acres of land, more or less. (Also known as 301 Brown Rd.)

11. 905 Locust Street, Texarkana, Arkansas

BEGINNING at the Southeast corner of Section B of JANE PEEK'S SUBDNISION of Block 2 of Peek's Addition to the City of Texarkana, Miller County, Arkansas, being the Southeast corner of Block Two (2) of said Peek's Addition; THENCE: North 90 feet; THENCE: West 133 feet; THENCE: South 90 feet; THENCE: East 133 feet to the Point of Beginning. (Also commonly known as 905 Locust Street).

12. 2101 Dudley Street, Texarkana, Arkansas

TRACT I:

A part of the NW 1/4 of the SE 1/4 of Sec. 29, T. 15 S., R. 28 W., Miller County, Arkansas and being more particularly described by the metes and bounds as follows: BEGINNING at an iron pipe in the North right of way line of Dudley Ave., said point being on the West boundary line of the NW 1/4 SE 1/4 of Sec. 29, T. 15 S., R. 28 W., Miller County, Arkansas, 30 ft. North of the Southwest corner of said NW-SE; THENCE- N. 00' 05' 56" E., said

West boundary line, 268.1 ft.; THENCE-East, along a line 15 ft. South of the parallel to the South wall of existing brick storage building and its projections 119.4 ft. to an iron pipe at the back of concrete curbing on the West side of drive; THENCE-S 00' 05' 56" E. parallel to said West line of NW-SE 268.1 ft. to the North right of way line of Dudley Ave.; THENCE-S.89'32' 28" W., with said right of way line, 119.4 ft. to the Point of Beginning and containing .735 acres, more or less.

TRACT II:

A part of the NW 1/4 of the SE 1/4 of Sec. 29, T. 15 S., R. 28 W., Miller County, Arkansas and being more particularly described by the metes and bounds as follows:

COMMENCING at a 1/2" iron pipe found in place on the North right-of-way line of Dudley Avenue, said POINT OF COMMENCING being on the West boundary line of NW 1/4 of the SE 1/4 of Section 29, T.15 S., R 28 W., Miller County, Arkansas, 30.0 ft. North of the Southwest corner of said NW 1/4 SE 1/4, THENCE-N 89 degrees 49 minutes 42 sections E., 118.95 ft. with said North right-of-way line to a W' reinf. Steel found in place at the Southwest corner of Lot No.1 in Block No.1 of DOWD'S SUBDIVISION to the City of Texarkana, Miller County, Arkansas, plat of said Subdivision being recorded Vol. 179, Page 147 of the Plat Records of Miller County, Arkansas, said corner being on the East boundary line of certain 0.735 acre tract conveyed by Robert S. Dowd and wife, Mary W. Dowd to Red River Regional Council on Alcoholism by deed recorded Vol. 254, Page 61 of the Deed Records of Miller County, Arkansas; THENCE: N. 00 degrees 05 minutes 56 seconds E. 267.05 ft. with said West boundary line of said 0.735 acre tract to a 1" iron pipe found in place at the back of concrete curbing, same being the Northeast corner of said 0.735 acre tract, the POINT OF BEGINNING of the tract herein described:

THENCE: N 00 degrees 05 minutes 56 seconds E., 182.95 ft. with said West boundary line of Dowd's subdivision to a W' reinf. Steel set at the Northwest corner of Lot 1 in Block 1 of said Subdivision;

THENCE: S 89 degrees 32 minutes 28 seconds W., 118.95 ft. with the projection of the North boundary line of said Dowd's Subdivision to a W' reinf. Steel rod for corner in the above mentioned West boundary line of the NW 1/4 SE 1/4;

THENCE: S 00 degrees 05 minutes 56 sections W., 181.90 ft. with said West boundary line of a 1/2" reinf. Steel set for corner at the Northwest corner of the above mentioned 0.735 acre tract;

THENCE: S 89 degrees 57 minutes 03 seconds E., passing at 0.30 ft. at ½” reinf. Steel set for offset corner in an existing fence line and continuing 118.65 ft. for a total distance of 118.95 ft. with the North boundary line of said 0.735 acre tract, same being 15.0 ft. South and parallel to the South edge of the existing concrete foundation of an old brick storage building to the POINT OF BEGINNING. The above described property being survey by Richard V. Hall, Jr. Contains 0.498 acres of land, more or less.

TRACT III:

All that certain tract of parcel of land being a part of the NW 1/4 of the SE 1/4 of Section 29, T. 15 S., R. 28 W., Texarkana, Miller County, Arkansas and being more particularly described by the metes and bounds as follows:

BEGINNING at ½” reinf. Steel found in place at the Northwest corner of Lot No.1 in Block No.1 of DOWD's SUBDIVISION to the City of Texarkana, Miller County, Arkansas, plat of said subdivision being recorded in Volume 179, Page 147 of the Plat records of Miller County, Arkansas;

THENCE - N 00' 05' 56" E, 200 ft. to ½” reinf. Steel found in place;

THENCE-N. 89' 32' 28" E., 443.36 ft. parallel with the North boundary line of the above mentioned Lot No.1 in Block No.1 of Dowd's Subdivision to a ½” reinf. Steel found in place;

THENCE N 00' 05' 56" E., 363.13 ft. to the South right of way line of the St. Louis Southwestern Railway, same being in the arc of a curve having a radius of 1668.87 ft. the radius point bears S. 08' 89' 57" W.

THENCE-Westerly with said curve to the left a distance of 565.48 ft. through a central angle of 19' 24' 51" to a ½” reinf. Steel set in the West line of said NW 1/4 of the SE 1/4;

THENCE-S 00' 03' 13" W., 559.24 ft. to a ½” reinf. Steel found in place;

THENCE-N 89' 32' 28" E, 118.95 ft. to the Point of Beginning and containing 5.42 acres of land, more or less.

Logan County, Arkansas:

13. 560 W. Second Street, Booneville, Arkansas

A part of the SE 1/4 of the SW 1/4 and part of the SW 1/4 of the SE 1/4 of Section 36, T -6-N, R-28-W in Logan County, Arkansas and being more particularly described as beginning at the SE corner of the SE 1/4 of the SW 1/4; thence N 89 deg 42' 28" W, a distance of 396.00 feet; thence North, a distance of 650.00 feet; thence S 89 deg 42' 00" E, a distance of 276.00 feet; thence South, a distance of 50.00 feet; thence S 89 deg 42' 00" E, a distance of 120.00 feet; thence South, a distance of 27.50 feet; thence S 89 deg 42' 17" E, a distance of 660.00 feet; thence South, a distance of 572.50 feet; thence N 89 deg 42' 00" W, a distance of 660.00 feet to the POINT OF BEGINNING; said described tract containing 14.44 Acres, more or less.

ENTERED this 8th day of August 2014.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE