

00-1268-CD

ETHEL M. HAMILTON et al -vs- CLIFTON COUNTY TAX CLAIM BUREAU

Date: 10/30/2000

Clearfield County Court of Common Pleas

NO. 0050134

Time: 10:48 AM

Receipt

Page 1 of 1

Received of: Hamilton, Ethel M. (plaintiff) \$ 0.00

Zero and 00/100 Dollars

Case: 2000-01268-CD	Plaintiff: Hamilton, Ethel M.	Amount
Miscellaneous Civil Filing		0.00
Total:		0.00

Payment Method: Cash

William A. Shaw, Prothonotary/Clerk of Courts

Clerk: OLDCASE

By: _____
Deputy Clerk

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

32 ETHEL M. HAMILTON, and :
42 GLORIA D. SMITH, heirs at law : MISC. DKT.
50f JESSIE McMASTERS, a/k/a :
JESSIE P. McMASTERS, deceased : NO. 00-1268-C0
Plaintiffs :
vs. :
CLEARFIELD COUNTY TAX :
CLAIM BUREAU :
Defendant :
: OBJECTIONS AND EXCEPTIONS
: TO SALE OF PARCEL NO.
: 14-D13-36

Code: Civil

Filed on behalf of:
ETHEL M. HAMILTON and
GLORIA D. SMITH

Plaintiffs

Counsel of Record for this
party:

TIMOTHY E. DURANT, ESQUIRE
Pa. I. D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

OCT 13 2000

William A. Stewart
Pittsburgh, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

ETHEL M. HAMILTON, and	*
GLORIA D. SMITH, heirs at law	*
of JESSIE McMASTERS, a/k/a	*
JESSIE P. McMASTERS, deceased	*
Plaintiffs	
VS	*
CLEARFIELD COUNTY TAX	*
CLAIM BUREAU	*
Defendant	*

OBJECTIONS AND EXCEPTIONS TO SALE OF
PARCEL NO. 14-D13-36

AND NOW, come ETHEL M. HAMILTON and GLORIA D. SMITH, heirs at law of JESSIE McMASTERS a/k/a JESSIE P. McMASTERS by and through their attorney, Timothy E. Durant, Esquire, and file the following objections and exceptions to the sale of property titled in the names of their parents, ROLE T. McMASTERS and JESSIE McMASTERS by the CLEARFIELD COUNTY TAX CLAIM BUREAU for delinquent taxes:

1. The Plaintiffs, ETHEL M. HAMILTON and GLORIA D. SMITH, are individuals who are sisters. ETHEL M. HAMILTON and GLORIA D. SMITH, are the real parties in interest in this matter. ETHEL resides at RD #1, Box 140, Coalport, PA and GLORIA resides in the Borough of Newburg with a mailing address of P.O. Box 275, LaJose, PA 15753.

2. The Defendant, CLEARFIELD COUNTY TAX CLAIM BUREAU, is a county agency with offices at the Clearfield County Courthouse, Clearfield, Pennsylvania 16830.

3. Role T. McMasters and Jessie McMasters were husband and wife and the parents of ETHEL and GLORIA. By virtue of a deed dated June 17, 1964 and recorded in the Clearfield County Recorder's Office in Deed Book 509 at page 41 on July 8, 1964 the parcel relevant to this action situate in the Borough of Newburg and County of Clearfield, describes as "House and 1 acre" vested in Role and Jessie McMasters as tenants by the entireties. A photostatic copy of the aforesaid deed is attached hereto and incorporated herein by reference as Exhibit "A".

4. On a date prior to April 19, 1997 Role T. McMasters departed this life thereby vesting the entire title to the subject premises in Jessie by operation of law as his surviving spouse.

5. On April 19, 1997 Jessie departed this life a widow, intestate, and survived by ETHEL and GLORIA as her sole heirs at law.

6. No estate was ever raised for Jessie and no one has ever been authorized to act on behalf of her estate.

7. Not later than May 10, 1999 the Tax Claim Bureau was aware that Role T. McMasters and Jessie McMasters were deceased when the restricted delivery Sale Notice for claim #97-1410 was returned marked "Deceased" as to each of these individuals.

8. On September 14, 1999 the Tax Claim Bureau purported to enter into an Agreement to Stay Sale with Role T. McMasters and Jessie McMasters for claims #97-1410 and 98-1436. The document was signed not by the McMasters (who were then deceased) but by one of their daughters, i.e. Gloria D. Smith.

9. Gloria D. Smith was not then, is not now, and never was authorized to sign on behalf of Role T. McMasters and Jessie McMasters as she was not appointed Administrator of either of their estates.

10. Gloria D. Smith was not acting on behalf of nor was she authorized to act on behalf of Ethel M. Hamilton when the Agreement To Stay Sale was signed on September 14, 1999.

11. Gloria d. Smith made the first quarterly payment under said Agreement To Stay Sale but never made another payment.

12. Ethel M. Hamilton was never a party to this Agreement To Stay Sale nor was she ever informed or served with notice of Gloria's failure to pay.

13. After Gloria's failure to pay the property was once again listed for sale in the name of Role T. McMasters and Jessie McMasters.

14. On May 20, 2000 the restricted delivery Sale Notice for claim #97-1410 was also returned marked "Deceased" as to Role T. McMasters and Jessie McMasters.

15. Gloria D. Smith was not personally served with notice of the sale nor does she recall ever seeing any postings of notice of sale on the property.

16. Ethel M. Hamilton was not personally served with notice of the sale nor does she recall ever seeing any postings of notice of sale on the property.

17. On or about September 15, 2000, the said property was sold for delinquent taxes under claim #98-1436 by the CLEARFIELD

COUNTY TAX CLAIM BUREAU pursuant to the Act of July 7, 1947, P.L. 1368 (Real Estate Tax Sale Law), Article VI, 72 P.S. §5860.601, et seq.

18. The purchaser of the House and 1 acre lot at the above referenced sale was Kim Mowery Hobba of Busy Bee Builders.

19. The upset price was \$3,776.13 and the actual purchase price was \$6,657.64.

20. The sale of said properties was not held in accordance with the provisions of the said law; specifically, the following objections are raised:

a. The CLEARFIELD COUNTY TAX CLAIM BUREAU failed to properly notify ETHEL M. HAMILTON of the sale scheduled for September 15, 2000, at 10:00 a.m. as required by §602(e)(2) of the Act.

b. Plaintiff, ETHEL M. HAMILTON, was not aware of the fact that her property, any interest of hers or of her parents was to be sold on said date.

c. The CLEARFIELD COUNTY TAX CLAIM BUREAU failed to properly notify GLORIA D. SMITH of the sale scheduled for September 15, 2000, at 10:00 a.m. as required by §602(e)(2) of the Act.

d. Plaintiff GLORIA D. SMITH was not aware that her property or any interest of hers was to be sold on said date.

e. The CLEARFIELD COUNTY TAX CLAIM BUREAU attempted to notify ROLE T. McMASTERS and JESSIE McMASTERS of the sale scheduled for September 15, 2000, at 10:00 a.m. but by then these persons had been deceased for many years and no notice or personal service could be obtained as to them as required by the Act.

f. The CLEARFIELD COUNTY TAX CLAIM BUREAU failed to take reasonable steps to determine who the real parties in interest were and then to notify both plaintiffs of the proposed tax sale.

WHEREFORE, Plaintiffs, ETHEL M. HAMILTON and GLORIA D. SMITH, pray the Court to sustain their objections, vacate the Tax Claim Bureau sale and render it null and void because of lack of proper notice to them as required under the law so that the said House and 1 acre situate in Newburg Borough and identified as Tax Map No. 14-D13-36 shall continue to be the property of the estate of Jessie Mc Masters until further appropriate distribution of said estate.



Timothy E. Durant

Timothy E. Durant, Esquire
Attorney for Plaintiffs

Dated: October 13, 2000

TIMOTHY E. DURANT
ATTORNEY AT LAW
201 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-1711

VERIFICATION

I Gloria D. Smith, do hereby verify that the statements made in the foregoing Pleading are true and correct to best of my knowledge information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C. S. §4904, relating to unsworn falsification to authorities.

10/10/00

Gloria D. Smith
Gloria D. Smith

VERIFICATION

I Ethel M. Hamilton, do hereby verify that the statements made in the foregoing Pleading are true and correct to best of my knowledge information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C. S. §4904, relating to unsworn falsification to authorities.

10/10/00

Ethel M. Hamilton
Ethel M. Hamilton

TIMOTHY E. DURANT
ATTORNEY AT LAW
201 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16832
(814) 765-1711

BEING a part of the property conveyed by Clarice F. Hurd and Emily M. Hurd to Clarice F. Hurd and Emily M. Hurd, husband and wife as tenants by the entireties by a deed dated January 26, 1952 and recorded in Deed Book 418 at page 459. The said Clarice F. Hurd died July 13, 1961 and thereby vests title in Emily M. Hurd, his surviving widow and the present grantor.

BEGINNING at a one and one-fourth inch iron pipe bearing a common corner of the properties of the Granitor and Glenm E. Thompson, thence along the Thompson property one (271') feet to a three-quarter inch iron pipe placed at the eastern boundary of the right of way of the Pennsylvalnia Department of Highways Route No. 36, thence along the right of way NORHL twenty eight (28') degrees WEST one hundred and fifty (150) feet to a three-quarter inch iron pipe on the eastern boundary of the said right of way; thence along the eastern boundary of the right of way of the Pennsylvalnia Department of Highways Route No. 36, thence along the right of way (150) feet to a three-quarter inch iron pipe hundred and fifty (150) feet due north of the Granitor's property along the western boundary of the said right of way; thence (56') degrees EAST three hundred and fifty feet to a three-quarter inch iron pipe bearing a common corner of the Thompson property one (168') degrees EAST one hundred and one and one-quarter inch and seven tenths (159.7) feet to a one and one-half mile pipe and the place of beginning. Containing approximately one acre as surveyed by Clyde F. Dickey.

Sylvania, bounded and described as follows:

All that property located in LaJosee, Newbury Boardough, Cleerfield County, Penn-

in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby convey to the said grantees,

That in consideration of Four Hundred (\$400.00)

ROLE T. MASTERS AND JESSE MASTERS, of Latrobe, Pennsylvania, husband and wife, as tenants by the entireties, of the second part, GRANTTEES

AND

part, GRANTOR, Newburgh, Bronx, New York, subscriber, widow of CLARENCE F. HORN, deceased, late of La Jolla, California, and of Cleffield County, Pennsylvania, party of the first

in the year nineteen hundred and sixty-four
day of June

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

ETHEL M. HAMILTON, and *
GLORIA D. SMITH, heirs at law *
of JESSIE McMASTERS, a/k/a *
JESSIE P. McMASTERS, deceased *

Plaintiffs *

VS *

CLEARFIELD COUNTY TAX *
CLAIM BUREAU *

Defendant *

CERTIFICATE OF SERVICE

I, Michael Luongo, verify that on October 13, 2000, I did hand deliver one (1) certified copy of the **PLAINTIFFS' OBJECTIONS AND EXCEPTIONS TO SALE OF PARCEL NO. 14-D13-36**. Said Objections were hand delivered to the person in charge at the office of the Clearfield County Tax Claim Bureau which is located at 230 E. Market St., Clearfield, PA 16830.

I understand that false statements herein are made subject to the penalties of 18 PA. C.S. §4904, relating to unsworn falsification to authorities.

Michael Luongo
Michael Luongo

Dated: 10/13/00

OCT 13 2000

19 A.C. - W

RECEIVED
OCT 13 2000
LIBRARY
WILMINGTON COLLEGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

ETHEL M. HAMILTON, and	*	
GLORIA D. SMITH, heirs at law	*	MISC. DKT.
of JESSIE McMASTERS, a/k/a	*	
JESSIE P. McMASTERS, deceased	*	NO. 00-1268-CD
Plaintiffs		
VS	*	
CLEARFIELD COUNTY TAX	*	
CLAIM BUREAU	*	
Defendant	*	

OCT 16 2000

Michael A. Luongo
Plaintiff

CERTIFICATE OF SERVICE

I, Michael Luongo, verify that on October 13, 2000, I did deposit in the United States First Class Mail, postage pre-paid, one (1) certified copy of the **PLAINTIFFS' OBJECTIONS AND EXCEPTIONS TO SALE OF PARCEL NO. 14-D13-36**. Said Objections were sent to purchaser, Kim Mowrey-Hobba at her last known address which was 3 West Avenue, Sykesville, PA 15865.

I understand that false statements herein are made subject to the penalties of 18 PA. C.S. §4904, relating to unsworn falsification to authorities.

Michael Luongo
Michael Luongo

Dated: 10/13/00

16 2000
1998/1999
Pittsburgh

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

ETHEL M. HAMILTON, and :
GLORIA D. SMITH, heirs at law :
of JESSIE McMASTERS, a/k/a :
JESSIE P. McMASTERS, deceased : NO. 00-1268-CD
Plaintiffs :
vs. : Claim Nos. 97-1410,
CLEARFIELD COUNTY TAX : 98-1436, and 99-1404
CLAIM BUREAU :
Defendant : PRAECIPE TO WITHDRAW
: OBJECTIONS AND EXCEPTIONS
: TO SALE OF PARCEL NO.
: 14-D13-36

Code: Civil

Filed on behalf of:
ETHEL M. HAMILTON and
GLORIA D. SMITH

Plaintiffs

FILED

NOV 17 2000

William A. Shaw
Prothonotary

Counsel of Record for this
party:

TIMOTHY E. DURANT, ESQUIRE
Pa. I. D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

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GLORIA D. SMITH, heirs at law	*
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JESSIE P. McMASTERS, deceased	*
	NO. 00-1268-CD
Plaintiffs	*
VS	*
CLEARFIELD COUNTY TAX	*
CLAIM BUREAU	*
Defendant	*

TO THE PROTHONOTARY:

Kindly withdraw my Objections and Exceptions To Sale of Parcel
No. 14-D13-36 filed on October 13, 2000 in the above-captioned
matter.


Timothy E. Durant, Esquire
Attorney for Plaintiffs

DATED: November 17, 2000

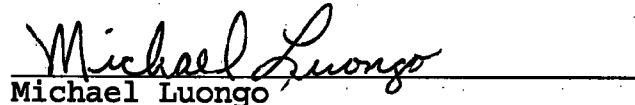
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JESSIE P. McMASTERS, deceased	*
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VS	*
CLEARFIELD COUNTY TAX	*
CLAIM BUREAU	*
Defendant	*

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Michael Luongo

Dated: 11/17/00

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CIVIL ACTION - LAW

ETHEL M. HAMILTON, and	*
GLORIA D. SMITH, heirs at law	*
of JESSIE McMASTERS, a/k/a	*
JESSIE P. McMASTERS, deceased	*
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Plaintiffs	*
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Defendant	*

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Michael Luongo
Michael Luongo

Dated: 11/17/00

FILED

NOV 17 2009
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William A. Shaw
Prothonotary

cc atty
Durant
Key