

08-2384-CD

Comm of PA vs William Fabisenski

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA

Plaintiff

v.

No. 2008-2384-CD

WILLIAM FABISESKI and
FIRST COMMONWEALTH BANK
ACCOUNT # 7120-099542

Defendants

Type of Proceeding:
CIVIL ACTION - EQUITY

Type of Pleading:
**COMPLAINT FOR INJUNCTIVE
RELIEF**

Filed on Behalf of:
**COMMONWEALTH OF
PENNSYLVANIA, CLEARFIELD
COUNTY**

Counsel of Record for Plaintiff:
**WILLIAM A. SHAW, JR.
DISTRICT ATTORNEY
CLEARFIELD COUNTY**

William A. Shaw, Jr.
District Attorney
Office of the District Attorney
230 East Market Street, Suite 210
Clearfield, PA 16830
(814) 765-2641 x 5990

FILED 5CC
010:50am D.A. Shaw
DEC 12 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
: Plaintiff :
: :
v. : No. 2008-2384-CD :
: :
WILLIAM FABISESKI and :
FIRST COMMONWEALTH BANK :
ACCOUNT # 7120-099542 :
Defendants :
:

COMPLAINT IN EQUITY

NOW, comes the Commonwealth of Pennsylvania, by and through, William A. Shaw, Jr., District Attorney, Clearfield County, and in support of the forgoing Complaint in Equity, avers as follows:

1. The plaintiff is the Commonwealth of Pennsylvania acting by and through William A. Shaw, Jr., District Attorney, Clearfield County;
2. The defendant is:
 - (a) William Fabiseski, an adult individual, *sui juris*, currently an inmate at the State Correctional Institute at Houtzdale, P.O. Box 1000, Houtzdale, Pennsylvania; and
 - (b) First Commonwealth Bank, a national banking association, with its principal office at Philadelphia and 6th Street, Indiana, Pennsylvania, with a branch office at 14303 Clearfield Shawville Highway, Clearfield Pennsylvania;
 - (c) Account # 7120-099542 serviced by First Commonwealth Bank and Owned by William Fabiseski;

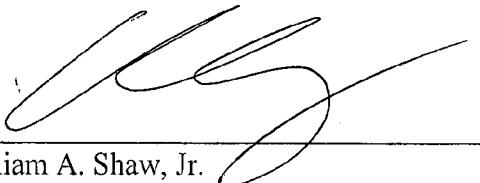
3. It is believed that William Fabiseski operates an ongoing criminal enterprise and deposits proceeds of the enterprise in Account # 7120-099542 with First Commonwealth Bank, this belief is based upon the sworn affidavit of Tpr. Robert Yakicic, of the Pennsylvania State Police Bureau of Criminal Investigations, Organized Crime Division attached hereto as Exhibit A and incorporated herein by reference.(Attachment "A").

4. Account # 7120-099542 is owned and/or controlled by William Fabiseski and is believed to contain the proceeds of his criminal enterprise, which may be commingled with other, legitimately derived money for money-laundering purposes, and may be disposed of at any time by Fabiseksi.

5. Irreparable harm will be suffered if William Fabiseski transfers proceeds from the account.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court issue an ex-parte Order for special RELIEF directing First CommonwealthBank to Freeze the assets contained within Account # 7120-099542, as well as an equitable lien in favor of the Commonwealth of Pennsylvania, Office of the District Attorney of Clearfield County, and an accounting.

Respectfully Submitted,



William A. Shaw, Jr.
District Attorney
Clearfield County

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
: Plaintiff :
: v. : No 2008-2384-CD
: :
WILLIAM FABISESKI and :
FIRST COMMONWEALTH BANK :
ACCOUNT # 7120-099542 :
: Defendants :
:

AFFADAVIT

NOW, comes Tpr. Robert Yakicic, Pennsylvania State Police, Bureau of Criminal Investigations, Organized Crime Division, and states the following:

1. This incident occurred as Security Captain, Eric Tice of the Pennsylvania Department of Corrections at Houtzdale discovered an inmate was receiving and transferring large amounts of money from his inmate account.
2. Tice discovered that SCI Houtzdale inmate William Fabiseski (Inmate # HE2270) was receiving large amounts of money (\$500.00 to \$1,000.00) as gifts from Rebecca Barnes. Tice began monitoring telephone calls and mail and discovered that Barnes was cashing large checks being sent to her residence from unknown persons as directed by Fabiseski.
3. Tice discovered that Barnes was cashing the checks and either depositing the money into Fabiseski's personal bank account at First Commonwealth Bank in Ebensburg, PA or sending a portion of the money into SCI Houtzdale to be placed into Fabiseski's inmate account.
4. Your affiant and Cpl. Jeff Dombrosky interviewed Barnes at her residence on 11/19/08. Barnes stated that she has been depositing federal checks (stimulus and income tax) into a business account (Rebecca A. Barnes Natural Products, account # 7110202197) that she had set up at First Commonwealth Bank. The business account was set up by Barnes, as

directed by Fabiseski. Barnes stated that she receives the federal checks via the mail and that the envelopes do not have a return address on them. Barnes stated that Fabiseski would alert her via mail that she would be receiving the checks and also direct her as to where the money was to go (deposited into Fabiseski's personal account, inmate account). Barnes stated that she was also directed by Fabiseski to sometimes send money orders to other persons that he named in his letters. Barnes stated that she and Fabiseski received "cut" of the money from the checks that she was cashing. Barnes added that she did not remember or recognize the names on the checks that she was cashing. Barnes added that she began corresponding with Fabiseski via mail in April of 2008 and that in June of 2008 she set up the business account and began receiving and cashing checks.

5. Barnes provided your affiant and Cpl Dombrosky with numerous letters that were written by Fabiseski to Barnes. Barnes also provided these officers with U.S. Postal money order receipts for money that was sent out to Fabiseski or other persons as directed by Fabiseski.
6. Your affiant read the letters provided by Barnes. Your affiant discovered numerous times where Fabiseski wrote in his letters that if the police come around and ask her any questions, she is not to tell them anything. Fabiseski also states in several letters that Barnes is not to go to the same teller every time she deposits the checks into the business account, and also states that he is going to spread the checks out so the bank does not catch on. Fabiseski also states in a letter to Barnes that he is going to stay in touch with some inmates and they are going to find people to do it every year even after Fabiseski is out and they can make money for doing nothing. Fabiseski states in a letter "if anybody talks to you, do not say anything about cashing these checks for people" and adds "technically were not allowed to do that and charge a fee unless you report the money as income". Fabiseski also states I'm not allowed to make money off of people". Fabiseski states in a letter to Barnes, "if they (the bank) say anything, just say he bought some products from you and you accepted the check as payment" and adds "I'm gonna put his D.L. # (drivers license number) with it and his date of birth so you can write them on the back your self".
7. Fabiseski provides in a letter to Barnes the name of Thomas J. Welch, check amount and directions on what to do with the money. Your affiant discovered that Welch was transferred from SCI Houtzdale to SCI Forest in 2007 (over a year prior to the check being cashed). Fabiseski also provides in another letter the names Shawn Latshaw and Robert James Maurer, check amounts and directions on what to do with the money. Your affiant discovered that Latshaw was released from SCI Houtzdale in March of 2008 (three months prior to the check being cashed). Your affiant discovered that Maurer is currently an inmate at SCI Houtzdale.

8. On 11/21/08, your affiant served two search warrants on First Commonwealth bank for accounts belonging to William Fabiseski and Rebecca Barnes.
9. On 11/24/08, your affiant received the bank records for the business account belonging to Rebecca Barnes, which included all the federal checks which were received by Barnes and deposited into her business account. Barnes deposited twenty two (22) federal checks which were made payable to various inmates incarcerated at Pennsylvania State Correctional Institutions and all checks were sent to the address of 568 State Street Apartment #4, Curwensville, PA 16833 (the listed Pennsylvania Drivers License address of Juanitha Leach (Anderson)).
10. Barnes stated that she was directed by Fabiseski on several occasions to send money orders to Juanitha Leach at 568 State Street Apartment # 4, Curwensville PA 16833. Your affiant verified this as there were several letters from Fabiseski to Barnes in which Fabiseski directed and or questioned Barnes about sending money to Juanitha Leach at 568 State Street Apartment #4, Curwensville, PA 16833.
11. Your affiant obtained a photocopy of a letter from Fabiseski to Juanitha Leach (Anderson). In the letter Fabiseski asks if Leach "sent out these other 3" and lists "RLB-05- 1725.16 sent around 8-23-08, BT-06- 1415.90 sent around 8/27/08, RJF-06- 893.00 sent around 8-31-08".
12. Your affiant discovered federal checks which were deposited in the names of Robert L. Beasley, Bryant Titus and Richard J. Foster. These names correspond with the initials used in Fabiseski's letter to Leach (Anderson).
13. On 12/08/08, your affiant spoke to former SCI Houtzdale inmate, John Coffman. Coffman stated that he has knowledge of the "scam" that Fabiseski was committing within SCI Houtzdale. Coffman stated that Fabiseski obtained other inmates information in order to file for federal income tax or stimulus checks in their names. Coffman stated that the inmates believed that they were going to receive the money or a portion thereof, however Fabiseski would inform the inmates later that the paperwork became lost or that they received a letter that the request was declined. Coffman stated that he was aware that Juanitha Leach (Anderson) was sending the completed tax forms for the inmates from her residence and that she was receiving the federal checks at her residence. Coffman stated that he believed Leach was sending the blank tax forms via mail into other unknown inmates at SCI Houtzdale who were relaying the forms to Fabiseski to be completed. The completed tax forms were then sent back out of the prison by unknown inmates to Juanitha Leach (Anderson).

VERIFICATION

I, Tpr. Robart Yakicic, verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

12/12/08
Date

Tpr. Robert Yakicic
Tpr. Robert Yakicic

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
:
Plaintiff :
:
v. : No. 2008-2384-CD
:

WILLIAM FABISESKI and
FIRST COMMONWEALTH BANK
ACCOUNT # 7120-099542
:

Defendants :

FILED 5CC
01/10/2009pm D.A.
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S William A. Shaw
Prothonotary/Clerk of Courts

PETITION FOR SPECIAL INJUNCTION

NOW, comes the Commonwealth of Pennsylvania, by and through, William A. Shaw, Jr., District Attorney, Clearfield County, and in support of the forgoing Petition for Special Injunction, avers as follows:

1. The Plaintiff has filed a Complaint in Equity in the above captioned matter;
2. The Plaintiff avers that William Fabisceski will dispose of assets located within Account # 7120-099542 and serviced by First Commonwealth Bank;
3. The Commonwealth avers that the assets contained within Account # 7120-099542 and serviced by First Commonwealth Bank represent the proceeds from Defendant Fabisceski's ongoing criminal activity;
4. Immediate and irreparable harm will be sustained if the special injunction is not issued.

Respectfully Submitted,

William A. Shaw, Jr.
District Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
Plaintiff :
v. : No. 2008-2384-CD
:

WILLIAM FABISESKI and :
FIRST COMMONWEALTH BANK :
ACCOUNT # 7120-099542 :
Defendants :

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DEC 12 2008 (610)

O R D E R

William A. Shaw
Prothonotary/Clerk of Courts

NOW, to wit, this 12th day of December, 2008, upon consideration of Petition for

Special Injunction filed by the Commonwealth, and ex-parte hearing thereon, the Court being satisfied that immediate and irreparable injury will be sustained should an injunction not be issued, it is the Order of this Court as follows:

1. The Commonwealth's Petition for Special Injunction is granted;
2. First Commonwealth Bank is Ordered to freeze all assets contained within Account # 7120-099542 until further order of this Court.
3. A hearing on the special injunction is scheduled for December 16th, 2008, at 1:00 p.m., in Courtroom No. 2, Clearfield County Courthouse, 1 North 2nd Street, Clearfield, Pennsylvania.
5. The Sheriff of Clearfield County shall transport the Defendant William Fabisceski from SCI Houtzdale to the Clearfield County Courthouse for the purpose of such hearing and return the Defendant to SCI Houtzdale upon completion of the hearing.

6. SCI Houtzdale is directed to release the Defendant to the custody of the Clearfield County Sheriff for the purpose of transportation to and from the hearing.
7. Trooper Robert E. Yakicic is directed to serve forthwith a certified copy of this order, along with a true and copy of the Complaint and Petition, upon each of the defendants above named and the District Attorney of Clearfield County shall file a proof of service.

By the Court,



Paul E. Cherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :

Plaintiff :

v. : No. 2008-2384-CD

WILLIAM FABISESKI and
FIRST COMMONWEALTH BANK
ACCOUNT # 7120-099542

Defendants :

CONSENT

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William A. Shaw
Prothonotary/Clerk of Courts

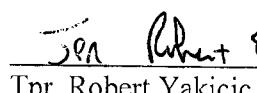
I, William Fabiseski, do hereby consent to the Commonwealth's Petition for Special Relief. I have received Notice of the Commonwealth's Complaint in Equity and Petition for Special Relief and have been given Notice of the Hearing on the Commonwealth's Petition Scheduled for December 16th, 2008, at 1:00 p.m. in the Clearfield County Courthouse. I will not appear at the Hearing to oppose the Commonwealth's Petition.

12-12-08
Date


William Fabiseski

Witness

12/12/08
Date


Tpr. Robert Yakicic

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
Plaintiff :
v. : No. 2008-2334-CD
WILLIAM FABISESKI and :
FIRST COMMONWEALTH BANK :
ACCOUNT # 7120-099542 :
Defendants :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Plaintiff's Complaint in Equity, Petition for Special Relief and Order were served in the manner indicated upon the following:

Service by Trp. Robert Yakicic hand delivery to:

William Fabiseski
SCI Houtzdale
Houtzdale, PA 16698

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William A. Shaw


First Commonwealth Bank - Clearfield Branch Prothonotary/Clerk of Courts
Branch Manager
14303 Clearfield Shawville Highway
Clearfield, PA 16830

Date: December 15, 2008


William A. Shaw, Jr.
District Attorney

Pursuant to 18 Pa.C.S.A. § 4904 a knowingly false certificate of service constitutes a misdemeanor of the second degree.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

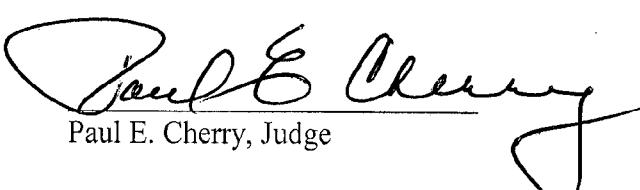
COMMONWEALTH OF PENNSYLVANIA :
Plaintiff :
v. : No. 2008-2384-CD
WILLIAM FABISESKI and :
FIRST COMMONWEALTH BANK :
ACCOUNT # 7120-099542 :
Defendants :

O R D E R

NOW, this 16th day of December, 2008, upon consideration of the Commonwealth's Petition for Special Injunction and hearing thereon, the Defendant William Fabiseski and the Defendant First Commonwealth Bank having no objection thereto, it is the Order of this Court as follows:

1. The Commonwealth's Petition for Special Injunction is granted;
2. First Commonwealth Bank is Ordered to freeze all assets of William Fabiseski including but not limited to bank accounts, including Account # 7120-099542 and Certificates of Deposit;
3. Trooper Robert E. Yakicic is directed to serve forthwith a certified copy of this Order upon each of the defendants above named and the District Attorney of Clearfield County shall file a proof of service.

By the Court,


Paul E. Cherry, Judge

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S
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
Plaintiff :
v. : No. 2008-2384-CD

WILLIAM FABISESKI and
FIRST COMMONWEALTH BANK
ACCOUNT # 7120-099542

Defendants :

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PETITION FOR RELEASE OF ASSETS

William A. Shaw
Prothonotary/Clerk of Courts

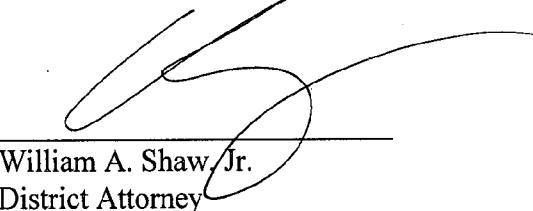
NOW, comes the Commonwealth of Pennsylvania, by and through, William A. Shaw, Jr., District Attorney, Clearfield County, and in support of the forgoing Petition for Release of Assets, avers as follows:

1. On December 16, 2008, the Court granted the Commonwealth's Petition for Special Injunction, whereby the Defendant First Commonwealth Bank was ordered to freeze all assets of the Defendant William Fabiseski, including but not limited to bank accounts, Account # 7120-099542 and Certificates of Deposit (Attachment A);
2. Fabiseski obtained these funds through the use of fraudulent tax returns;
3. That the Internal Revenue Service has issued tax refunds to Fabiseski that should not have been issued, (Attachment B);
4. Fabiseski has fled the jurisdiction of this Court and multiple law enforcement agencies have warrants for Fabiseski's arrest;

5. The U.S. Internal Revenue Service has assumed responsibility for prosecuting Fabiseski;
6. That the total amount of the erroneously issued tax refunds is \$26,419.12 (Attachment B);
7. That the Defendant Fabiseski is not entitled to these funds.

WHEREFORE, the Commonwealth respectfully requests this Honorable Court issue an Order instructing the Defendant First Commonwealth Bank to unfreeze the assets of the Defendant William Fabiseski, and directing the Defendant First Commonwealth Bank to issue a check payable to the United States Treasury in the amount of \$26,419.12.

Respectfully Submitted,



William A. Shaw, Jr.
District Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
Plaintiff :
v. : No. 2008-2384-CD
WILLIAM FABISESKI and :
FIRST COMMONWEALTH BANK :
ACCOUNT # 7120-099542 :
Defendants :

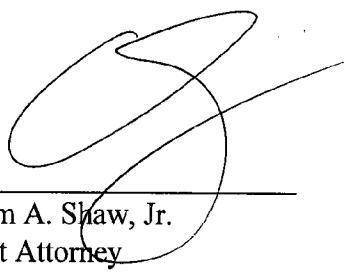
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Plaintiff's Petition For Release of Assets and Order were served in the manner indicated upon the following:

Service via First Class Mail:

First Commonwealth Bank
Central Offices
Philadelphia and 6th Streets
P.O. Box 400
Indiana, PA 15701-0400

Date: March 8, 2013



William A. Shaw, Jr.
District Attorney

Pursuant to 18 Pa.C.S.A. § 4904 a knowingly false certificate of service constitutes a misdemeanor of the second degree.



FIRST
Commonwealth.

First Commonwealth Bank
Central Offices
Philadelphia and 6th Streets
P.O. Box 400
Indiana, PA 15701-0400
fcbanking.com

May 4, 2011

Attn: Philip O'Connor
U.S. Department of Treasury
IRS Criminal Investigations
319 Washington St., Suite 100
Johnstown, PA 15901

Dear Mr. O'Connor,

First Commonwealth Bank continues to hold the funds belonging to William Fabiseski pursuant to the Order of Court dated 12-16-08. The original holds appear to have been placed on November 21, 2008, at the time First Commonwealth Bank was made aware to the potential issue. The current assets of William Fabiseski are listed below:

1. Savings account, 7120099542 with a balance of \$197.34.
2. Certificate of Deposit, 01096000002082 with a balance of \$1,091.64.
3. Certificate of Deposit, 01096000002400 with a balance of \$5,429.95.
4. Certificate of Deposit, 01096000002433 with a balance of \$1,058.10.
5. Certificate of Deposit, 01096000002804 with a balance of \$10,195.18.
6. Certificate of Deposit, 01096000002833 with a balance of \$5,109.71.
7. Certificate of Deposit, 01096000002866 with a balance of \$5,179.26.

Very Truly Yours,

James Boyle
Vice President

"A"



WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE**Internal Revenue Service
Fresno Service Center
Lead # - 0126 08****Department of the Treasury
PO Box 24012 M/S M2003
Fresno, CA 93779**

March 1, 2012

**First Commonwealth Bank
601 Philadelphia Street
Indiana, PA 15701-0400****Attention: Leda McCracken****In re: Request for Return of Transactions per APPENDIX E attached spreadsheet.
Payable to: Multiple Depositors****To Whom It May Concern:**

The Internal Revenue Service has discovered that it has electronically issued a tax refund that it should not have issued. Authorized tax refunds are paid through the Financial Management Service (FMS) of the United States Department of the Treasury.

The payment information is as follows:

1. United States Treasury direct deposits;
2. Payable to Multiple Depositors as listed on the attached spreadsheet;
3. Issued pursuant to an IRS voucher;
4. Electronically transferred from Financial Management Service, by Electronic Funds Transfer for direct deposit to multiple Account Numbers 7120099542, 1096000002082, 01096000002400, 01096000002433, 01096000002804, 01096000002833, 01096000002866 with Routing Number 043306826, in the amount totaling \$26,419.12.

We request your help to recover the funds by mailing a cashier's check in the amount of the refund payment to us at the address shown above. If you are able to return the refund payment electronically, you may instead return it to the originating FMS Center.

We ask that you return the full amount of the refund payment without reduction for any fees associated with this request. However, we only request the return of the refund payment to the extent that funds remain in your account holder's account or to the extent that your account holder reverses prior transactions and funds are returned to the account. We do not expect you to return funds that your account holder has irretrievably removed from the account. We request your best efforts to stop any drafts or instruments requested by your account holder and to reverse transactions to the extent possible.

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B

If you must later provide to your account holder any funds returned to us under this letter, we will pay to you the amount that you return under this letter and also provide to your account holder.

If we determine that the taxpayer identified above is entitled to the funds you return, we will reissue the funds by check to the taxpayer. If your account holder questions your return of funds, we ask that you direct him or her to contact the IRS at 1-800-829-1040 to resolve the matter.

You must immediately notify us at the address shown above if you determine that your account holder has a valid claim against the funds you return to us (but prior to providing any amount to your account holder) or if your account holder files a court action against you in regard to the funds you return to us. We can then research whether we have reissued the funds to the taxpayer and, to the extent appropriate in all other cases,

1. Defend the government's retention of the funds that you return to us,
2. Allow the government to shoulder the burden of any litigation, and
3. Bring any claim of damages against your account holder within the requirements of the damage provisions applicable to the Internal Revenue Service.

This agreement is not for the benefit of your account holder. This agreement contains the entire agreement between the parties about the funds you return.

We appreciate your assistance and request that you keep in touch with us as to the progress in this matter. If we can be of further assistance, please contact us at the address shown above or by email at bank.prison.leads@irs.gov.

Sincerely,



Jodi L. Patterson, Director
Return Integrity and Correspondence Services

"B"

FILED

MAR - 8 2013

William A. Shaw
Prothonotary/Clerk of Courts

"
81'

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
Plaintiff :
v. : No. 2008-2384-CD
WILLIAM FABISESKI and :
FIRST COMMONWEALTH BANK :
ACCOUNT # 7120-099542 :
Defendants :

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ORDER

William A. Shaw
Prothonotary/Clerk of Courts

NOW, this 8th day of March 2013, upon consideration of the Commonwealth's Petition for Release of Assets and supporting documentation, it is the Order of this Court as follows:

1. The Commonwealth's Petition for Release of Assets is GRANTED;
2. First Commonwealth Bank shall release the assets of William Fabiseski, including but not limited to bank accounts, Account # 7120-099542 and Certificates of Deposit, for the sole purpose of refunding the Internal Revenue Service in the amount of \$26,419.12;
3. First Commonwealth Bank is Ordered to issue a check payable to the United States Treasury in the amount of \$26,419.12.

BY THE COURT,

Paul E. Cherry
JUDGE