

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

OCT 16 12:24

Civil Action No. **92-N-2042**

JAMES R. WANGSVEVER, CLERK
BY _____ DEP. CLK.

WE THE PEOPLE, THE TAX PAYING CITIZENS OF THE UNITED STATES OF AMERICA,
HARMON L. WILFRED,

Plaintiffs

vs.

THE RESOLUTION TRUST CORPORATION, ("RTC")
3M-GRECO, LTD., A COLORADO LIMITED PARTNERSHIP,
HOULIHAN PARNES, REALTORS, A NEW YORK PARTNERSHIP,
GOLDBERG PROPERTY ASSOCIATES INC., A COLORADO CORPORATION,
MARK A. GOLDBERG,
AND ALL OTHERS,

Defendants

COMPLAINT

Plaintiffs, represented by Mr. Harmon L. Wilfred, Pro Se, does hereby move this Court to classify this Complaint as a Class Action Suit pursuant to Federal Rule 23 with the commonality of being tax paying persons and citizens of the United States of America Wherefore, Plaintiffs for this Complaint against Defendants alleges and avers:

Parties

1. Plaintiffs are all tax paying citizens of the United States of America.

2. Harmon L. Wilfred is a resident of Arapahoe County, Colorado and general partner of Falcon Limited No. One, a Colorado limited partnership, and ^{former} owner of property located in Arapahoe County, Colorado.

3. The Resolution Trust Corporation, as Defendant, is an agency of the United States Government, operating in the public trust with the assignment of taking over and protecting the assets of the failed savings and loans in this country.

4. 3M-GRECO, LTD., is a Colorado Limited Partnership and direct purchaser of RTC assets in the state of Colorado; Houlihan Parnes, Realtors, is a Scarsdale, New York Partnership and contracted service company of 3M-GRECO; Goldberg Property Associates Inc., is a Colorado corporation and contracted service company of 3M-GRECO; and Mark A. Goldberg, is a Colorado resident and Court appointed receiver on behalf of 3M-GRECO.

5. "All Other Parties" are the RTC's contracted service companies, the purchasers of the savings and loan assets held in trust by the RTC and their respective service companies and the subsequent purchasers of these assets.

Jurisdiction-Venue

1. This Court has subject matter jurisdiction of this action in that at issue include Federal questions and the controversy exceeds the sum of \$50,000, exclusive of interest and costs; thereby giving the court jurisdiction subject to U.S.C. Section 1332.

2. Venue is proper in the United States District Court for the District of Colorado in that the primary controversy cited by this complaint involves property and transactions having taken place in the state of Colorado.

Designated Factual Basis for Action

1. On February 7, 1985, for good and valueable consideration, Falcon Limited No. One (hereinafter refered to as "Falcon") by it's general partner Harmon L. Wilfred (hereinafter referred to as Wilfred) executed and delivered to American Federal Savings and Loan Association of Colorado ("American Federal") a promissory note in the original principal amount of \$3,200,000 (the "Original Note").

2. As security for payment of the Note, Falcon Limited No. One by it's general partner Harmon L. Wilfred executed a Deed of Trust

(the "Original Deed of Trust") dated February 7, 1985, for the benefit of American Federal which encumbered certain real property located in Arapahoe County Colorado, and does now include a 28,940 square foot two story office building with the address of 6436 South Racine Circle, Englewood, Colorado.

3. The Resolution Trust Corporation ("RTC"), was appointed receiver for American Federal Savings on September 28, 1989, and on March 20, 1990 endorsed the Note and assigned the beneficial interest under the Deed of Trust to American Savings of Colorado, and subsequently as receiver for American Savings of Colorado, the RTC endorsed the note and assigned the beneficial interest under the Deed of Trust to Co-Defendant 3M-GRECO on June 10, 1992.

4. The subject building was fully leased and occupied by a Raytheon Corporation subsidiary, the Seismograph Service Corporation in October of 1985 under a five year lease contract. Seismograph Service Corporation vacated the property after fulfilling the entire five year Lease obligation in September of 1990. During the five year lease period which corresponded to the Note term and expiration all interest payments were made by Falcon Limited No. One and the note remained current.

5. For the period from September of 1990 to September of 1991 numerous attempts were made to contact the RTC to establish parameters at which the property could be leased or sold. RTC's response was to continue to send accumulated interest invoices with no other form of communication other than their admitted inability to locate the file. Wilfred personally managed and maintained the property in good condition during this period without compensation.

6. In September of 1991 RTC finally made contact with Harmon L. Wilfred, Falcon Limited No. One's general partner through Wilfred's personal bankruptcy with a claim pursuant to Wilfred's personal guaranty of the above referenced Note. Wilfred then immediately made contact with RTC's attorney, Ms. Shannon Robinson, and set a meeting with RTC's Asset manager, Mr. Thomas Morton of Coopers and Lybrand on September 25, 1991. In this meeting full cooperation was offered by Wilfred and discussions commenced to offer a deed in lieu of foreclosure in order to save the time and the expense of any legal action. Another meeting was held at the property on September 30, 1991 wherein the building was inspected by RTC's representative and their contracted appraiser. The building was found to be properly maintained and Mr. Morton recommended that Wilfred continue to maintain the property in order to avoid any cost to the RTC. At that time information on utilities and services was exchanged in writing.

7. On October 4, 1991 another meeting took place at Coopers and Lybrand wherein further discussions took place on the subject of the deed in lieu proposal and an arrangement was discussed regarding Wilfred's personal property being stored on the property. Wilfred then put the proposal discussed in writing and presented it to the RTC for approval as per Mr. Morton's request.

8. On October 18, 1991, Wilfred received an official reply from Mr. Morton stating that the RTC's response to the deed in lieu proposal was favorable and that once approval was obtained from the RTC's Credit Review Committee RTC's council would draft the necessary documentation. It is important to note that a release of Wilfred's personal guaranty on the \$3,200,000 Note was not a part of the deed in lieu agreement.

9. On October 24, 1991, Wilfred received a default notice by certified mail from RTC's attorney calling the note and threatening personal suit. This occurred even though it was made clear from the initial discussions that Mr. Wilfred had no assets to pursue or even the money to hire an attorney and was certainly no target for RTC to collect any more than the subject property. What Mr. Wilfred had to offer personally and as General partner of Falcon Limited No. One was free service and full cooperation.

10. From October 24, 1991 to May 22, 1992 Wilfred continued to maintain the property in good condition without compensation and regular contact was maintained with Mr. Morton by telephone. Also during this time Wilfred's post office box mailing address and pager number remained unchanged and was available to Mr. Morton. During this period sales activity on the property was commenced by Wilfred at a stated price of \$1,500,000. On February 9, 1992 Wilfred contacted Mr. Morton with an active purchaser of the property at the above stated price and was told that RTC was placing this loan for sale in a \$100,000,000 package and that any further attempt at marketing the property for lease or sale during RTC's negotiations with it's potential purchaser would prompt the RTC to commence a foreclosure sale action. Wilfred was told that he would have to wait until the new purchaser of the loan was formally in place and that until such time this purchaser was to remain undisclosed. Wilfred continued to present the property to interested parties in spite of the ultimatums by RTC.

11. On May 22, 1992, Wilfred made contact with Mr. Morton requesting contact with the new purchaser in order to obtain parameters on the continuing opportunities of marketing the property even though they had not closed on the loan with RTC as yet. Permission was granted and Wilfred's letter of request for direct contact was faxed and mailed to Mr. Morton to be passed on to the new purchaser on that date.

12. On May 25, 1992, Wilfred was contacted by Mr. Ted Sanella of Houlihan Parnes, a contracted service company and representative of the new purchaser of the loan, 3M-GRECO, a newly formed Colorado limited partnership originating out of Scarsdale, New York. In this conversation a deed in lieu of foreclosure was discussed by Mr. Sanella wherein Mr. Wilfred would also receive the exclusive right to sell the property for a market commission and a release of his personal guaranty. Mr. Sanella suggested that Mr. Wilfred should establish his real estate license with a commercial brokerage company and begin marketing the property as soon as possible on 3M-GRECO's behalf. Wilfred continued to maintain the property without compensation.

13. On June 1, 1992, Wilfred received a formal letter from the RTC announcing the new purchaser of the loan as 3M-GRECO and establishing an appointment with their attorney, Mr. Bruce Johnson of Otten, Johnson and Robinson to meet the new owner and discuss the status of the loan. From that point meetings were held with attorney Bruce Johnson and 3M-GRECO's principals, Mr. Howard Parnes and Mr. Murray Stark on 6/18/92, 6/19/92, 7/2/92, wherein the direct employment of Mr. Wilfred's services were discussed as well as the confirmation of the deed in lieu agreement terms and conditions. Based on these discussions Wilfred then secured a position at a local prominent commercial brokerage firm to begin marketing the property on behalf of 3M-GRECO once the deed in lieu

of foreclosure arrangement was executed.

14. In the time period from July 10, 1992 to July 16, 1992 Wilfred discovered that a foreclosure action had commenced on the property without his knowledge and without proper notice against Falcon Limited No. One in December of 1991 by RTC and that a foreclosure sale had taken place on July 7, 1992, again without notice to Falcon and without Wilfred's knowledge as required by law wherein 3M-GRECO had bid the property at sale at \$800,000 to deliberately create an exorbitant deficiency judgement against Falcon and Wilfred of \$2,672,840. It was also revealed at that time that 3M-GRECO had been illegally marketing the property without title or permission from Falcon Limited No. One, the holder of title. This marketing program was being carried out by Houlihan Parnes, 3M-GRECO's contracted service company from Scarsdale New York in the form of a faxed brochure dated June 19, 1992, to all the major brokerage companies throughout the Colorado market at a price of \$1,250,000.

15. When confronted with these facts on July 23, 1992 Mr. Bruce Johnson and Mr. Murray Stark, 3M-GRECO's attorney and principal denied any wrong doing and further denied ever offering the deed in lieu, the exclusive listing or the employment arrangement as discussed and threatened to commence legal action against Wilfred and Falcon for the full deficiency judgement if Wilfred did not

execute an arrangement transferring title immediately to 3M-GRECO. Wilfred then announced that he would exercise Falcon Limited NO. One's legal right to sell and redeem the property even though there was less than 60 days of the permitted 75 days of the foreclosure sale period remaining.

16. On that same day 3M-GRECO sent it,s contracted management company, Goldberg property Associates, to the property to knowingly and illegally change the locks on the building. Then on the 27th of July 3M-GRECO went to court exparte and obtained a court appointed receiver who just happened to be Mr. Mark Goldberg of Goldberg Property Associates. During Mr. Goldberg,s appointment as Receiver he managed to obtain a 2,000 square foot lease in the building for a 45 day term and let the grounds and the building deteriorate to the point of the appearance of abandonment. All of these actions were deliberate attempts to obstruct and interfere with Falcon's right to sell and redeem the note and therefore the property from the Public Trustee.

17. Since July 27, 1992 Falcon has filed a number of objections motions and court pleadings without an attorney as an attempt to stop 3M-GRECO and it's contracted service companies from interfering with Falcon's legal right to sell the property and redeem the note. All attempts by Falcon and Wilfred have been to no avail. On September 21, 1992 the foreclosure sale period

expired and the property title transferred to 3M-GRECO.

18. On September 24, 1992, three days after the foreclosure sale period expired for Falcon Limited No. One, 3M-GRECO closed on the property to a purchaser at a price of \$1,250,000. Based on information and belief 3M-GRECO obtained a \$3,200,000 loan from RTC for a drastically discounted price of approximately \$500,000. With the foreclosure complete in cooperation with RTC, 3M-GRECO attained a profit of \$750,000 in a period of approximately three months on a property that had been vacant for two years.

Claim for Relief

1. The above Designated Factual Basis For Action is but one example of how the RTC, it's contracted attorneys, service companies, purchasers and their contracted attorneys and service companies (Defendant's) have taken one asset intrusted to the RTC on behalf of the Plaintiff's interests and generated unnecessary expenses and an inexcusable lost opportunity to the Plaintiff's account of at least \$750,000. This amount is based on the price received by 3M-GRECO of \$1,250,000 less the approximate \$500,000 that 3M-GRECO paid the RTC in the packaged offering. The loss with the unnecessary service expenses could easily equate to as much as 25% of the original value of the asset.

2. The subject asset, being a property with an office building that has been vacant for two years with no income is a conservative example in comparison to other assets in the estimated \$100,000,000 purchase by 3M-GRECO. Utilizing the subject example it is not unreasonable to assume that up to \$25,000,000 of the original sale package has been lost to Plaintiff's account as a result of Defendant's combined actions of breach of fiduciary responsibility and overall illegal acts of fraud, misrepresentation and deliberate conspiracy to create unconscionable and exorbitant profits at the expense of the Plaintiffs.

3. Plaintiffs would now like to present this example to the Court a realistic one step further and compare the same percentage to the actual amounts already approved by Congress for the savings and loan bailout of \$105,000,000,000 (one hundred and five billion) and the amount currently estimated as the final cost to Plaintiff's of \$500,000,000,000 (five hundred billion). Understanding that these amounts are the dollars to be spent beyond the irresponsible prices currently being received by the RTC for Plaintiff's assets, the losses to Plaintiff's account may already be as much as \$30,000,000,000 (thirty billion) on the amount already approved and up to \$147,000,000,000 (one hundred and forty seven billion) at the end of the program.

Wherefore, We The People, the Plaintiffs of this action, do hereby petition this Court for the following action:

1. The immediate cessation of all RTC sales, legal and service activities except where absolutely necessary to maintain and administrate the value of the assets being held in trust until such time as a full audit of these activities can be completed.
2. The return of all monies from Defendant's to the Plaintiff's account that has been taken as a result of RTC's irresponsible actions to date in selling these assets at below market value and generating unconscionable and exorbitant profits to the Defendant's accounts now or in the future. This amount to be estimated at this time at \$30,000,000,000 (thirty billion dollars) until such time as the audit can be completed and the actual amount determined.
3. The immediate removal of all the top management of the RTC, to be replaced with qualified real estate, banking and investment professionals.
4. The reorganization of the RTC into a government agency for the purpose of maximizing Plaintiff's account by maintaining possession of the assets of the failed savings and loans and financial institutions and to do all things necessary to preserve, maintain, lease, repair, improve, protect and operate the same; to enter into agreements; to collect all rents, revenues, income, profits and other benefits arising from the operation, protection and management of these assets; with any and all profits and surplus to

be applied to the Plaintiff's national indebtedness.

.....and for such other relief as this court may deem proper.

RESPECTFULLY SUBMITTED on this 16 day of October, 1992

by: Harmon L. Wilfred

Harmon L. Wilfred, Pro Se (Plaintiff's Representative)

P.O. Box 4393

Highlands Ranch, Colorado 80126

(303) ~~694-3210~~

936-7714

6405 S. DAYTON
SUITE 104
ENGLEWOOD, CO. 80111

METROPOLITAN SUITES -
THROUGH OCTOBER, 92