

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

SECURITIES AND EXCHANGE)	CIVIL ACTION NO. 3:01CV00116
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	
)	
TERRY L. DOWDELL, <i>et al.</i>)	
)	
Defendants.)	JUDGE JAMES H. MICHAEL, JR.
_____)	

**RECEIVER’S MOTION TO SELL
CERTAIN REAL PROPERTY**

NOW COMES Roy M. Terry, Jr., and the law firm of DuretteBradshaw PLC (collectively “Receiver”), receiver for Terry L. Dowdell (“Dowdell”), and respectfully requests that the Court enter an Order authorizing the sale of certain parcel of real property formerly occupied by Adam Dowdell (Terry Dowdell’s son) and Wendetta Dowdell (also known as Wendy Dowdell) (Terry Dowdell’s daughter-in-law), and in support thereof, represents to the Court as follows:

I. BACKGROUND

1. By General Warranty Deed, dated February 20, 2001, W.W. Whitlock Agency, Inc., a Virginia Corporation, transferred to Adam F. Dowdell and Wendetta P. Dowdell, husband and wife, as tenants by the entireties with the common law right of survivorship, certain real property commonly referred to as 21 Deerview Road, Keswick, Virginia, and more particularly described as:

All that certain lot or parcel of land, with all improvements thereon and all appurtenances thereunto belonging, lying and being in the Green Springs District, Louisa County, Virginia, shown and described as Lot 68, Phase II, containing 1.692 acres, more or less, on a certain plat of survey made by James H. Bell, Jr., P.C., Professional Land Surveyor, dated June, 1995, of Green Spring Estates, also known as "Keswick Glen", recorded in the Clerk's Office of the Circuit Court of Louisa County, Virginia, in Plat Book 8, page 1068-1070

as recorded in the Clerk's Office of the Circuit Court of Louisa County, Virginia, in Deed Book 669, Page 186, on March 2, 2001 (the "Property").

2. By Promissory Note ("Dowdell Note"), dated March 2, 2001, Adam F. Dowdell and Wendetta P. Dowdell promised to pay Terry L. Dowdell and Mary E. Dowdell the sum of Two Hundred Fifty Two Thousand Dollars (\$252,000.00 USD).

3. The Dowdell Note was secured by an interest in the Property granted by a Deferred Purchase Money Deed of Trust, dated March 2, 2001, by and between Adam F. Dowdell and Wendetta P. Dowdell, Grantor, and Larry J. McElwain, the Trustee, as recorded in the Clerk's Office of the Circuit Court of Louisa County, Virginia, in Deed Book 670, Page 387, on March 14, 2001.

4. On November 19, 2001, the Securities and Exchange Commission (“SEC”) filed its *Complaint* against the Defendants and Relief Defendants in this action.

5. On or about March 20, 2002, the directors of Authorized Auto Service, Inc. (“Authorized Auto”), including Adam Dowdell and Wendy Dowdell, resolved to borrow funds from Branch Banking and Trust Company of Virginia (“BB&T”) and loan them to Authorized Auto.

6. By credit line note (“BB&T Note”), dated April 19, 2002, Adam F. Dowdell and Wendetta P. Dowdell promised to pay BB&T principal in an amount not to exceed One Hundred Thousand Dollars (\$100,000.00 USD).

7. The BB&T Note was secured by an interest in the Property granted by a Credit Line Deed of Trust (“BB&T Deed of Trust”), dated April 19, 2002, by and between Adam F. Dowdell and Wendetta P. Dowdell, Grantee, and BB&T-VA Collateral Service Corporation, the Trustee, as recorded in the Clerk’s Office of the Circuit Court of Louisa County, Virginia, in Deed Book 722, Page 330, on May 3, 2002.

8. By Deed of Subordination, dated April 19, 2002, the lien of the Dowdell Deed of Trust was subordinated to the lien of the BB&T Deed of Trust, as recorded in the Clerk’s Office of the Circuit Court of Louisa County, Virginia, in Deed Book 722, Page 327, on May 3, 2002.

9. On June 4, 2002, the SEC filed its *Joint Motion for Order Directing Appointment of Receiver over Defendants Terry L. Dowdell, Dowdell, Dutcher & Associates, Emerged Market Securities, DE-LLC and Related Entities*.

10. By Order entered July 12, 2002, the Court appointed Roy M. Terry, Jr. and the law firm of DuretteBradshaw PLC as Receiver over defendants Terry L. Dowdell, Dutcher & Associates, Inc., and Emerged Market Securities, DE-LLC.

11. By *Consent and Stipulation of Terry L. Dowdell, Dowdell, Dutcher & Associates and Emerged Market Securities, DE-LLC to Order of Permanent Injunction* (“*Terry’s Consent*”) signed by Dowdell on June 3, 2002, and filed with the Court on June 4, 2002, Dowdell did “voluntarily consent to disgorge all other assets owned and/or controlled by Dowdell, including any assets owned and/or controlled by any entity owned or controlled by Dowdell.” (*Terry’s Consent*, at ¶ 59.)

12. By *Permanent Injunction Order* entered June 4, 2002, Dowdell was ordered to disgorge all investor funds and/or ill-gotten gains received as a result of the conduct alleged in the SEC’s *First Amended Complaint* plus prejudgment interest on those amounts, (*Permanent Injunction Order* § IV), and the *Consent* was incorporated into the Order with the same force and effect as if fully set out therein, (*Id.* § VI).

13. By *Consent and Stipulation of Mary Dowdell to Final Judgment* filed May 28, 2003, Mary Dowdell agreed to disgorge her gains from conduct alleged in the *First Amended Complaint*, including interest in the Dowdell Note the Property, and execute

documents as necessary to effectuate the transfer of all title ownership rights or beneficial interest she has in such property. (*Mary's Consent*, at ¶ B(9)(i) (interest in Dowdell Note).

14. By Order entitled *Final Judgment against Mary Dowdell* entered June 4, 2002, Mary Dowdell was ordered to disgorge all investor funds and/or ill-gotten gains received as a result of the conduct alleged in the SEC's *First Amended Complaint* plus prejudgment interest on those amounts (including the aforementioned interest in the Property and Dowdell Note), and the *Consent* was incorporated into the Order with the same force and effect as if fully set out therein.

15. By *Final Judgment Against Relief Defendants Adam Dowdell and Wendy Dowdell* entered June 4, 2004, the Court ordered, adjudged and decreed that:

As satisfaction of the portion of the Final Judgment concerning the property located at 21 Deerview Road, Adam and Wendy Dowdell shall transfer to the Receiver, within fourteen days of entry of this order, all title, ownership rights or beneficial interests they have in the real estate property, and all improvements, located at 21 Deerview Road, Keswick, Virginia;

(*Final Judgment against Relief Defendants Adam Dowdell and Wendy Dowdell*, ¶ I(1), at 2.)

II. JURISDICTION

16. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Securities and Exchange Act [15

U.S.C. § 78aa], and 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1367 (supplemental jurisdiction).

III. RELIEF REQUESTED

17. The Receiver seeks authority to sell the Receivership's interest in the real property described above by public auction in accordance with 28 U.S.C. § 2001(a) and to give notice of such sale in accordance with 28 U.S.C. § 2002, as provided by the proposed Order.

18. The Receiver seeks authority to retain the services of an auctioneer upon the terms and conditions set forth in the proposed *Sales Agent/Auctioneer Agreement for the Sale of Real Property* attached as Exhibit A.

WHEREFORE, the Receiver respectfully prays that the Court enter an order: (i) approving the auction of certain real property pursuant to the terms and conditions of the proposed Order, Exhibit B, or upon such other terms and conditions as the Court may approve; (ii) authorizing the Receiver to employ an auctioneer; and (iii) awarding the Receiver such other and further relief as may be just and proper.

Respectfully submitted, this the 25th day of June, 2004.

Roy M. Terry, Jr. and DuretteBradshaw PLC
Receiver
By Counsel

/s/ Douglas Scott

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