



Dkt. 4, 7. The Receiver has acknowledged that his “job is to maximize the amount distributed to the defrauded investors . . . .” *See* Cause No. 4:11-CV-415-RAS, *Shepard v. Nash, et. al.*, in the Eastern District of Texas, Sherman Division, Dkt. No. 13.

1.2 In a final judgment signed July 17, 2010, the Court ordered Thompson to disgorge profits not already disgorged and pay \$195,330 in penalties to the Receiver. Dkt. No. 483 at 5.

## **2. The Frio County Litigation**

2.1 Thompson owns an interest in an oil and gas lease known as the “Browne Lease,” which is recorded Frio County and Zavala County, Texas (the “Lease”). This property is the subject of litigation instituted in the 81<sup>st</sup> District Court in Frio County, Texas, which previously was before this Court following removal by the Receiver. *See Shepard*, Dkt. No. 1, 3, 7. In that litigation, Guy Yoakum, a lessee in the Browne Lease, was a plaintiff and was represented by Carl Pipoly. Dkt. No. 3 at 2, 7-8. The lessees brought suit against the lessor/owners after the defendants disputed the continuing validity of the Browne Lease, contending that the defendants were interfering with their ability to “market the Lease to third parties who are willing to pay a premium due to the oil play in the area known as the ‘Eagle Ford Shale.’” *Id.* at 6. According to the lessees, the interference with their ability to sell the Browne Lease caused consequential damages of approximately \$9,000,000, an amount commensurate with “the price that presently is being paid for such lease rights in this area due to the ‘Eagle Ford Shale’ drilling activity.” *Id.* at 6. The lessor/owners, represented by Ricardo Morales and Clay Person, answered that lawsuit and filed a third-party claim against Thompson. *See Shepard*, Dkt. No. 4. The Receiver removed that litigation to this Court. *See Shepard*, Dkt. No. 1, 7.

2.2 The Receiver’s website, however, shows that the Frio County litigation actually began because the Receiver received a substantial offer to purchase the Lease. *See*

<http://haysconsulting.net/travis-correll-et-al/> (Last visited October 25, 2012), attached as Exhibit A (“The Receiver received an offer to purchase the lease for *considerable consideration*. Soon after the offer was received, the heirs of the grantor (the “Browne Family”) of the lease threatened litigation to terminate the lease.” (emphasis added)).<sup>2</sup>

2.3 The lessor/owners moved to remand to State court. *See Shepard*, Dkt. No. 11. In their motion, the lessor/owners alleged that the receivership would be harmed by the increasing litigation costs and that the Receiver had rejected a settlement offer from the Brownes to purchase Thompson’s interest in the Lease for \$40,909. *Id.* at 18-19.

2.4 The lessees and the Receiver responded to the motion to remand, arguing that remand was impractical, that the Receiver’s duty was to “*maximize the amount distributed to the defrauded investors*,” and that acceptance of the offer to purchase for only \$40,909 did not comply with that duty. *See Shepard*, Dkt. No. 13. at 6 (emphasis added).

2.5 The lessor/owners filed a reply, in which they suggested an existing relationship between the Receiver and counsel for the lessees, Carl Pipoly. *See Shepard*, Dkt. No. 15 at 6. (“Attorney Will indicated that he and Attorney Pipoly were ‘co-counsel’, and that at all relevant times in the Texas Lawsuit, Receivership Estate funds had been pledged and paid to cover Thompson’s 8% share of the legal bills incurred by the Lessees in the Texas Lawsuit”). In support, the lessor/owners provided the Receiver’s attorney-fee bill, which included conferences with Pipoly. *Id.* at Ex. C/Attachment No. 3.

2.6 The Receiver then filed a surreply, denying that Pipoly was his “co-counsel” or had taken any action on behalf of the Receivership Estate or Thompson in the Frio County lawsuit. *See Shepard*, Dkt. No. 16. Curiously, however, the Receiver argued that, after mediation

---

<sup>2</sup> While documents dated August 14, 2012 appear on the Receiver’s website, the notice of public sale of the Lease was not posted. <http://haysconsulting.net/travis-correll-et-al/> (Last visited October 25, 2012).

failed and he decided to remove to federal court, he had retained Pipoly to help defend Thompson's mineral interest. *Id.* at 4 & Ex. 1.

2.7 Prior to the Court's ruling on the motion to remand, the lessees filed a partial motion for summary judgment, joined by the Receiver. *See Shepard*, Dkt. No. 22, 25. In the accompanying brief, the lessees argued that oil companies have purchased land near the Browne Lease, which "has driven up the acquisition cost of lease rights in the area, which has, in turn, increased the value of the Browne Lease." *Id.* at Ex. 1 at 1. The lessees explained that the Frio County litigation sought \$9 million in damages "based on the \$1500 per acre bonus, which oil companies were paying for lease rights in the area at that time." *Id.* at Ex. 1 at 3. This Court remanded the lawsuit to state court, but commented on the Receiver's rejection of the settlement offer that may have been beneficial to the estate given litigation costs. *See Shepard*, Dkt. No. 37.

### **3. The Receiver Posts the Lease For Public Sale and Publishes an Erroneous Notice**

3.1 On August 8, 2012, the Receiver filed a notice of his intent to conduct a public auction of Thompson's interest in the Browne Lease. *See* Dkt. No. 504 at 3. In the Notice, the Receiver stated his belief "that it is in the best interest of the Receivership Estate to sell the Thompson Interest at a public sale in an effort to recover as much as possible from the last remaining assets that the Receiver possesses." *Id.* at 3. The notice of public sale provided:

The Receiver, pursuant to 28 U.S.C. § 2001, et seq., plans to have a public sale at the United States District Court for the Eastern District of Texas, Sherman Division, **7904 Preston Road**, Plano, Texas 75024, on September 12, 2012, at 10:00 a.m.

In an effort to obtain the **maximum** price for the Thompson Interest, the Receiver believes that it is in the best interest of the Estate not to engage an auctioneer and, instead, use counsel to facilitate the sale. This is to ensure the efficient sale of the Thompson Interest with the least amount of expense.

*See* Dkt. No. 504 at 3 (emphasis added).

3.2 The Receiver anticipated that the likely purchaser of the lease would be the other interest owners, who were also involved in litigation over the lease's validity. *See* Dkt. No. 504 at 3. Thus, the Receiver provided direct notice to the lessee/working interest owners:

The Receiver believes that the most likely purchaser of the Thompson Interest is another interest owner in the Browne Lease. As such, all current owners of any percentage of the Browne Lease who have made an appearance in the suit styled Cause No. 4:11-cv-415, John Shepard et al. vs. Nash et al., in the United State District Court of the Eastern District of Texas, Sherman Division, which concerned the Browne Lease, will be provided notification by sending copies of this notice to their counsel.

*Id.* at 3-4. The Receiver also represented that he would publish a notice in accordance with 28 U.S.C. § 2001, et. seq., providing the date, time, and location of the sale in local newspapers. *Id.* at 4. All of the notices published, however, contained a significant error: the address of the courthouse was wrong. *See* attached Exhibit C, Plaintiff's Exhibit 5 at Sept. 12, 2012 Hearing. The address provided in the notice was "7904 Preston Road," while the address of the courthouse is "7940 Preston Road," in Plano, Texas. *See* attached Exhibit B, Transcript of Sept. 12 Hearing at 82. Moreover, while the leased property is located in Frio and Zavala counties, this auction was to occur in Plano, Texas. *See* Dkt. No. 504 & Ex. A; *see* Exhibit B at 64. On August 14, 2012, the Receiver filed a motion to approve the public sale and asked for a hearing on the date of the sale, after the sale was completed, to confirm the sale. *See* Dkt. No. 505. This motion also included an incorrect address for the courthouse in Plano, listing it as "7904 Preston Road." *Id.*

#### **4. Remnant Oil & Gas, LLC is Misled by the Notice**

4.1 Brian Burris is an attorney for Remnant Oil & Gas, LLC, whose principal expressed an interest in purchasing Thompson's interest in the Browne Lease. *See* attached Exhibit D, Affidavit of Brian Burris. On September 12, 2012, Burris flew from San Antonio, Texas to Addison, Texas. *Id.* Upon landing, Burris rented a car and drove toward Plano. *Id.*

Burris's client sent the Zavala Sentinel notice of public sale to his e-mail, but the file was corrupted. *Id.* Burris performed a Google search on his iPhone for "federal courthouse plano texas" and viewed the entries. *Id.* The first entry was the actual web site for the Eastern District of Texas, but there was no address feature on the web entry from which an address could be gleaned. *Id.* Burris scrolled to the second Google result and saw references to Google "Places." *Id.* He selected what he believed to be the address for the Plano Federal District Courthouse, which was 19360 Preston Road, and followed the directions provided through the GPS feature on his iPhone. *Id.* Once he realized he was not following a similar route to the one he had taken previously,<sup>3</sup> he stopped in a parking lot and re-checked the search engine. *Id.* It was only then that he recognized the digits associated with the address, which were 7940. *Id.* However, the address produced by Google both that day and currently is 7940 Preston Road, *Frisco*, Texas 75034 even though the address provided in the notice indicated that the site of the auction was 7904 Preston Road, Plano, Texas 75024. *Id.* Burris then selected that address option (even though the advertisement had indicated that the courthouse was in *Plano*), followed the GPS feature on the iPhone, and ultimately arrived at the U.S. District Courthouse. *Id.*

4.2 While trying to get to the courthouse, Burris looked up the Receiver's counsel that was listed on the notice, Clark Will, on the State Bar of Texas web site. *Id.* He called the Receiver and was transferred through several assistants and then, ultimately, to Will's voice mail. *Id.* Notably, the phone number given in the notice is the same as that provided on the State

---

<sup>3</sup> Originally, Burris's client erroneously informed him that the auction would take place on September 10, 2012. *See* Exhibit D. The two arrived in Addison, Texas that morning, rented a car, and attempted to find the courthouse by utilizing an iPhone to find the location using the notice provided in the Zavala Sentinel. *Id.* However, the notice stated that the auction was to take place at 7904 Preston Road, Plano, Texas 75024, which is not the location for the Federal Courthouse in Plano. *Id.* After driving for approximately 30 minutes, the two finally located the Federal Courthouse after driving down Preston Road and discovered that it was built utilizing a very non-traditional design. *Id.* Once they arrived, they learned that no auction was occurring at that courthouse and ultimately realized they had the wrong date. *Id.*

Bar of Texas's website. *Compare* Exhibit C with attached Exhibit E. Burriss called again and sought Will's cell phone from his assistant, to no avail. *See* Exhibit D. Burriss finally received a return telephone call from Will at 11:10, but the auction was already over. *Id.*

## **5. The September 12, 2012 Hearing**

5.1 In his conversation with Will, Burriss expressed frustration over the erroneous address in the original notice, and he told Will that he had tried to appear at the auction to bid on the Lease, was ready and prepared to pay more than double what the purchaser had bid on the Lease, and was requesting that the auction be re-opened so that others could bid on the Lease. *Id.* Burriss also explained his belief that reopening the sale would benefit the Receivership Estate's beneficiaries. *Id.* Burriss pointed out the problems with finding the location of the courthouse even utilizing Google and the iPhone maps. *Id.* Burriss requested information over when the sale would be reviewed and approved by the Court. *Id.* Will indicated that the Court would conduct a hearing the very same afternoon and that he would not oppose an opportunity for Burriss to be heard, given the erroneous address provided in the notices for the sale. *Id.*

5.2 At the hearing, the Receiver acknowledged that the notices contained an incorrect address; however, he argued that the notices were adequate because they identified the location of the auction as the "United States Courthouse for the Eastern District of Texas." *See* Exhibit B at 50. He asked the Court to take judicial notice that "there's not a whole lot else on this block but this courthouse. There are some condos next door. And other people found it." *Id.* However, those "other people" had been before the Court due to the removal of the Frio County litigation.

5.3 The Receiver explained to the Court that the bidders at the auction were Yoakum, one of the lessees Frio County lawsuit, and two lawyers who had represented the lessor/owners, Morales and Persons. *See* Exhibit B at 49; *see Shepard*, Dkt. No. 4. at 26. Yoakum placed the

first bid. Exhibit B. at 49. The bidding then went up incrementally between Yoakum and Morales and Persons. *Id.* at 49. Ultimately, Yoakum cast the winning bid for \$40,000. *Id.*

5.4 Burris attended the hearing, explained how he had come to the auction late because he could not find the courthouse, and stated there was some confusion as a result of the typographical error. *Id.* at 51, 52-61. The Receiver then explained that he did not need prior approval to sell the Lease, but that 28 U.S.C. § 2001 applied to the sale, so he tried to comply with that provision. *Id.* at 65. Then he stated, “Because it’s the subject of a lawsuit, I did not want oil-and-gas speculators showing up to bid on it and find out, after traveling up here, that there’s a lawsuit involving it. So we included the style and the court and all that type of thing where the lawsuit was.” *Id.* The Receiver argued that the street address would be “surplusage,” and that there is “nothing else on this block that even looks like a courthouse.” *Id.* at 66. Burris then argued that the only bidders at the auction were interested parties, and the Court should exercise its equitable power of overseeing the receivership to maximize the value of the return to the receivership and reopen the auction. *Id.* at 67.

5.5 During a recess, Burris asked why only interested parties had shown up to the auction. *See id.* at 71; Exhibit D. The Receiver, Mr. Hays, informed Burris that he “was not working on a contingency” and was not concerned about the amount recovered on behalf of the crime victims. *Id.* Upon return from the recess, the Court stated its belief that the true question was whether an average layperson could read this notice and find the courthouse. *Id.* at 76. The Court stated that on the “7900 block [of Preston Road], there’s nothing else.” *Id.* at 77. The Court believed that an average person could find the courthouse. *Id.* at 77.

5.6 Burris again argued that the Court should be concerned that the receivership was not maximizing the benefit to the victims of the crimes committed by Thompson, and



considering that along with the defective notice, the Court should reopen the sale. *Id.* at 77-78. Burris questioned why the Receiver would oppose such a procedure, given his duties to the investors harmed by Thompson's actions. *Id.* at 78. Burris further pointed out that the winning bidder, Yoakum, was an interest owner, and that the Receiver owes the working interest group owners money, which created a conflict of interest. *Id.* at 79. The Receiver responded that due to expenses, he believed that Thompson, as a working interest owner, owed approximately \$120 dollars to cover expenses. *Id.* at 81. But when asked by the Court whether anyone had called him to express an interest in the Lease, he informed the Court that Morales, Persons, and Pipoly had called to relay that they would attend the sale. *Id.* He also spoke to Yoakum that morning. *Id.* The Receiver's counsel claimed that he had never met Yoakum before the day of the hearing, and he knew of no reason that he should not have been allowed to bid on the Lease. Exhibit B at 82. Burris then pointed out that because of the litigation, both Yoakum and Morales were interested parties who were seeking to obtain the Lease as cheaply as possible, and did not have an interest to maximize the value of the Receivership Estate. *Id.* at 83.

5.7 The Court then determined that the notice was not "fatally defective," and stated it would confirm the sale. *Id.* On September 27, 2012, the Court signed a formal order approving the sale. *See* Dkt. No. 514.

## ARGUMENT

The Court should reconsider and set aside its order confirming the sale.<sup>4</sup> "While a judicial sale will not be set aside on the ground of inadequacy of price alone, unless the inadequacy is so

---

<sup>4</sup> A motion to reconsider under Rule 59 is the appropriate vehicle for this challenge, and it provides the Court with the opportunity to "(1) correct manifest errors of law or fact; (2) review newly discovered evidence; or (3) review a prior decision in light of a recent change in the law." *In re Donahue*, 410 B.R. 311, 314 (Bankr. D. Kan. 2009). This motion is timely as it was brought 28 days after the order confirming the sale, and a "court of equity may set aside an order of sale either before or after

great as to shock the conscience of the chancellor, inadequacy of price, accompanied with other circumstances having a tendency to cause such inadequacy, or indicating any apparent unfairness or impropriety, will justify setting aside the sale. Such additional circumstances may be slight and insufficient in themselves to justify vacating the sale.” *See Mason v. Ashback*, 383 F.2d 779, 780 (10th Cir. 1967); *In re Donohue*, 410 B.R. 311, 316 (Bankr. D. Kan. 2009).

The Court limited its inquiry to whether the notice was sufficient for an ordinary person to find the courthouse. But that is not the end of the inquiry. In fact, the price was grossly inadequate; the only bidders at the auction were interested parties with which the Receiver had a preexisting relationship, creating an appearance of impropriety and unfairness to the Receivership Estate’s creditors; and the notice contained inaccuracies affecting the sale. Given the circumstances, the Court should have reopened the sale. The Court should set the order aside and allow a fair, competitive bidding procedure to maximize recovery to the Receivership Estate.

**A. This Court’s analysis must not be limited to the fairness to the successful auction bidder, but must include the price recovered, any unfairness or impropriety in the sale, and procedural irregularities.**

While the Court expressed concern about maintaining the integrity of a consummated sale, that is not the end of the inquiry.<sup>5</sup> Whether the successful bidder’s rights will be adversely affected is only one part of the inquiry. As the Fifth Circuit has explained,

---

confirmation when it appears that the same was entered through mistake, inadvertence, or improvidence.” *Id.* (citing FED. R. CIV. P. 59); FED. R. CIV. P. 59.

<sup>5</sup> In actuality, the sale had not been consummated at the time that Burriss objected. In fact, in judicial sales, “the court has power [to reject a bid at an auction] if the price is so grossly inadequate as to shock the conscience,” and this is particularly true because “the bid at the marshal’s auction does not consummate a sale. It is the equivalent of an offer to the court, not accepted until judicially confirmed.” *First Nat. Bank of Jefferson Parish v. M/V Lightning Power*, 776 F.2d 1258, 1261 (5th Cir. 1985). “Until confirmation, the auction bid may be rejected.” *Id.* “Upon being petitioned to confirm the sale, the district court has discretion to decide whether or not the bid was egregiously inadequate and, in so doing, should consider whether the rights of third persons would be adversely affected by confirmation.” *Id.* At that point, prior to confirmation, the successful bidder at the auction really cannot object if the sale is rejected by the Court because the price was unfair. *Id.*

Auctions should not be empty exercises. The public policy of inspiring confidence in court-ordered sales favors confirmation of the sale to the highest bidder at the auction if it is fairly conducted. The court must also consider, however, the purpose of the judicial sale, which is to benefit both creditors and debtors.

*First Nat. Bank of Jefferson Parish v. M/V Lightning Power*, 776 F.2d 1258, 1261 (5th Cir. 1985). The Eighth Circuit has described this as a “sliding scale” approach. *See In re Food Barn Stores, Inc.*, 107 F.3d 558, 564 -567 (8th Cir. 1997). In *Food Barn Stores*, the court held that in the bankruptcy context, “unwavering adherence to formality is not normally advisable.” *Id.* (citing *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1069 (2d Cir. 1983)). The court noted that “[f]inality and regularity of proceedings are significant factors whenever the courts are involved in a sale of property, for devotion to those principles encourages fervent bidding and ensures that interested parties will sincerely extend their best and highest offers at the auction itself.” *Id.* (citing *In re Webcor, Inc.*, 392 F.2d 893, 899 (7th Cir. 1968)). Finality and regularity benefit a bankruptcy estate involved in a judicial sale by “increasing a trustee’s ability to command top dollar for items sold.” *Id.* The court cautioned, however, that “these are not the only elements at play during bankruptcy sales.” *Id.*

Rather, the court must also be mindful of the estate’s creditors and the primary purpose of a sale of the debtor’s assets, which is to enhance the value of the estate to pay off the creditors. *Id.* (citing *Metropolitan Airports Comm’n v. Northwest Airlines, Inc. (In re Midway Airlines, Inc.)*, 6 F.3d 492, 494 (7th Cir. 1993)). This receivership is no different—in fact, the Receiver has admitted over and over that his duty is to maximize the receivership estate for the benefit of the investor/victims that were harmed by Thompson’s actions, regardless of how he is to be compensated. *Compare Shepard*, Dkt. No. 13 at 6; Dkt. No. 504 at 3, *with Exhibit B.* at 71.

When these competing considerations exist, the Court’s duty is to weigh them to reach an equitable result: “the policy [of inspiring confidence in sales under the supervision of the court]

must be weighed against the purpose to be achieved by these judicial sales, which is to benefit the creditors and debtor.” See *In re Food Barn Stores, Inc.*, 107 F.3d at 564 -567 (quoting *Munro Drydock, Inc. v. M/V Heron*, 585 F.2d 13, 14 (1st Cir. 1978)).

By implicitly utilizing bidders’ reasonable expectations as a guidepost in reviewing the propriety of a bankruptcy court’s actions, the First Circuit charted what we feel is a logical path in balancing the need for finality against the interest in maximizing the estate’s worth. The concern the emphasis on finality is intended to serve, encouraging confidence in judicial sales, is satisfied so long as members of the public are treated in an anticipated manner. Thus, employing a sliding scale approach, the importance of estate enhancement diminishes as an auction participant’s reasonable expectations, and the gravity of finality, increase. At some point, such as when the court actually enters an order approving the sale, expectations become sufficiently crystallized so as to render it improper to frustrate anticipated results except in the limited circumstances where there is a grossly inadequate price or fraud in the conduct of the proceedings.

*Id.* This is the approach this Court should have taken, and refusing to reopen the sale solely based on the finding that ordinary people could have found the sale ignored the salient fact that this auction produced a grossly inadequate price.

#### **B. Grossly Inadequate Price**

“[G]ross inadequacy is said to exist when—apart from situations involving fraud or unfairness ... —there is a substantial disparity between the highest bid and the appraisal or fair market value, and ‘there is a reasonable degree of probability that a substantially better price will be obtained by a resale.’” *First Nat. Bank of Jefferson Parish*, 776 F.2d at 1261. For example, in *Donahue*, the Bankruptcy Court for the District of Kansas vacated an order confirming a sale, where a post-confirmation bid was more than double the amount of the sales price. 410 B.R. at 316 (“The lack of notice prior to the private sale coupled with an inadequate purchase price justifies setting aside the Agreed Order and reopening the bidding process.”).

Here, the winning bid was \$40,000, even though the Receiver: (1) admitted on his website that, prior to the Frio County litigation, he received a an “offer to purchase the lease for

considerable consideration” (*see* Exhibit A); and (2) has judicially admitted that he found a similar offer to purchase from the Browne parties was unacceptable, given his duty to maximize the Receivership Estate, and that the Browne Lease is worth \$9,000,000 (*see Shepard*, Dkt. Nos. 11, 13, 22, 25; Part 2 above). Burriss appeared immediately after the auction sale concluded and offered to more than double that price if the auction were reopened. *See* Exhibit B at 56. Burriss explained to the Court that he had access to more than \$100,000, which he was authorized to use to bid on Thompson’s interest in the Browne Lease. *Id.*; *see* Exhibit D.<sup>6</sup> Under the circumstances, considering the Receiver’s admitted interest in maximizing the Receivership Estate, the substantial value of the Lease, the low sales price, and Burriss’s bid to more than double the sales price if the auction were reopened, this Court should find that the sales price was grossly inadequate. *See First Nat. Bank of Jefferson Parish*, 776 F.2d at 1261.

### **C. Appearance of Impropriety and Unfairness**

The appearance of impropriety and unfairness to the investor/victims cannot be overstated. Here, the Receiver clearly had a relationship with both the purchaser at the auction sale and his counsel, who also represented Thompson in the Frio County litigation and with whom the Receiver sided in the removal proceedings. *See Shepard*, Dkt. 16. Likewise, the Receiver admitted that, prior to the Frio County litigation, he received an offer to purchase the lease for “considerable consideration,” *see* Exhibit A, which sparked the Frio County litigation in the first place. Yet, he rejected an offer to settle by the lessor/owners, citing his duty to maximize the estate, for a price that is nearly identical to the price for which one of the lessees, Yoakum, ultimately purchased at auction. *See Shepard*, Dkt. No. 11, 13; Exhibit B at 49. In fact, this Court questioned the Receiver’s motives for rejecting the settlement offer, which would have reduced

---

<sup>6</sup> Remnant Oil & Gas, LLC has authorized Burriss to offer to repay the reasonable expenses incurred by the purchaser at the sale including transaction costs.

the Receivership Estate's expenses and ended its involvement in the litigation. *See Shepard*, Dkt. No. 37. Certainly those expenses have continued to incur, yet the Receiver opposed reopening the auction, and has inexplicably appeared to lose his zeal to maximize the estate's value, despite the obvious benefit to the investor/victims of Thompson's actions. *See Exhibit B* at 66.

Finally, the Receiver's statements to Burriss and this Court that he did not want oil and gas speculators to show up at the option, citing the pending lawsuit, casts suspicion on his motives, given the comments regarding the nature of his fee he made to Burriss outside the courtroom. *See Exhibit D*. This Court should hold that the appearance of impropriety and unfairness to the investor/victims of Thompson's actions support reopening the auction, particularly when considered in light of the grossly inadequate sales price.

**D. Procedural Irregularity**

Finally, this Court should reconsider its ruling that the notice of sale was sufficient. The notice contained the incorrect address for the courthouse where the auction was to be held. *See Exhibit B* at 50. While the Court can rely on its knowledge of the courthouse's location, respectfully, the Honorable Judge of this Court travels to that courthouse daily. As demonstrated in the affidavit of Burriss's brother, Brett Burriss, and photographs attached thereto, a person traveling from the south, turning onto Preston Road, and arriving at the address provided in the notice would likely not be able to see the courthouse from that address. *See attached Exhibit F*. Importantly, the notices in this case were published in Frio, Zavala, and La Salle counties, hundreds of miles away from Plano. *See Exhibit B* at 48. It is highly likely that, just as Burriss experienced and his brother explained, an interested person would follow the notice to 7904 Preston Road, enter the parking lot, and be unable to see the courthouse from the address. *See*

