

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA

FILED
for Charlottesville
OCT 07 2009

JOHN F. GORCORAL, CLERK

BY: *J. Freeman*
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

KELVIN FREEMAN

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Criminal No. 3:08CR00022

FINAL ORDER OF FORFEITURE AS TO CERTAIN ASSETS

WHEREAS on September 29, 2008, this Court entered an Order of Forfeiture pursuant to 21 U.S.C. § 853, and Rule 32.2 of the Federal Rules of Criminal Procedure, based upon the guilty plea of Defendant Freeman, to violations of 21 U.S.C. §§ 841 and 846, the criminal violations giving rise to the forfeiture, thereby providing for forfeiture of certain properties;

AND WHEREAS, on October 24, 2008, notice of the forfeiture was posted on an official government internet site (www.forfeiture.gov) for at least 30 consecutive days, thereby providing notice of this forfeiture and of the intent of the United States to dispose of the property in accordance with the law and further notifying all third parties of their right to petition the Court for a hearing to adjudicate the validity of their alleged legal interest in the property;

AND WHEREAS Notice of the Forfeiture was served via certified mail on the follow persons: Janet Freeman and Kelvin Freeman, Jr.

AND WHEREAS it appears from the record that the time has expired for the timely filing of claims, and that no petitions, contested or otherwise, have been filed for the forfeited real property, with the exception of the petition filed by Wes B. Simon, Esquire on behalf of Kelvin

Freeman, Jr. Said Petition asserted an ownership interest in all shares of Capital Stock of Reliant Bank.

The United States and Petitioner, by counsel, are conducting discovery as to the shares of Capital Stock of Reliant Bank, as set forth in the Agreed Order Extending Time entered on September 3, 2009.

IT IS HEREBY ORDERED, ADJUDGED and DECREED THAT:

(A) All right, title and interest to the following described properties, any and all appurtenances thereto, all rents, and proceeds from the sale thereof, is hereby condemned, forfeited and title vested in the United States of America, and shall be disposed of according to law. No right, title, or interest shall exist in Kelvin Freeman nor any other person or entity. The United States Marshal is ORDERED to dispose of the property according to law subject only to all expenses attributable to the seizure, maintenance, forfeiture and sale of the defendant property.

(1) Real Property

27331 Cheapside Drive
Northampton County, Virginia
Tax Map No. 105-A-90

All that certain lot or parcel of land situate near Capeville, Northampton County, Virginia, containing one (1) acre, more or less, and bounded on the North by the lands of Charlie Nottingham; on the East by the lands of Gerald Spady; on the South by a road separating said land from the lands of Gerald Spade; and on the West by the roadway leading from Capeville cross rad to Cheapside.

And being designated as parcel 00105-0A-BLK-00-0090 on the records of the County of Northampton Commissioner of Revenue

Together with all and singular the buildings and improvements thereon, rights and buildings and improvements thereon, rights and privileges, tenements, hereditaments, easements and appurtenances unto the said land belonging or in anywise appertaining.

Subject, however, to all restrictions, easements and rights-of-way and other conditions of record.

Being the same property conveyed to Kelvin Freeman, Jr., by deed from James W. Elliot, Special Commissioner, on behalf of Mary Douglas, George Douglas, Blanche Harewood and John E. Spady dated June 7, 2007, and recorded in the Clerk's Office of the Circuit Court for the County of Northampton, Virginia, as Instrument Number 070001522

(2) Gentlemen's stainless steel Rolex wrist watch, Model 15200.

(3) Gentlemen's diamond Movado wrist watch.

(B) There has been no waiver of sovereign immunity in this case, and it is further

ORDERED that the United States of America is exempt from payment of state and local taxes on the forfeited real properties from the date of entry of this Order until such time as the property is disposed. United States v. City of Adair, Iowa, 539 F.2d 1185, 1189, (8th Cir. 1976).

Pursuant to 28 U.S.C. 524(c)(1)(H), the United States is only liable for payment of state and local taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order. Department of Justice Directive 94-9 authorizes the payment of interest in addition to the taxes owing but does not provide for payment of penalties on overdue taxes.

(C) Pursuant to 28 U.S.C. Section 524(c)(9) the Attorney General is authorized, at his authority, to warrant clear title to any subsequent purchaser or transferee of such forfeited property. Said authority has been delegated to the U.S. Marshals Service pursuant to 28 C.F.R. Section 0.111(I) and 28 C.F.R. Section 0.156.

(D) Any and all forfeited funds, including but not limited to currency, currency equivalents and certificates of deposit, as well as any income derived as a result of the United States Marshals management of any property forfeited herein, and the proceeds from the sale of

any forfeited property, after the payment of costs and expenses incurred in connection with the forfeiture, sale and disposition of the forfeited property, shall be deposited forthwith by the United States Marshal into the Department of Justice Assets Forfeiture Fund in accordance with 28 U.S.C. § 524(c) and 21 U.S.C. § 881(e).

(E) Certified copies of this Final Order of Forfeiture, and the Preliminary Order of Forfeiture, shall be recorded in the Circuit Court Clerk's Office of Northhampton County, Virginia, as to the forfeited property identified above in paragraph A1 as title is fully vested in the United States of America, and no right, title or interest exists in Kelvin Freeman nor any other person or entity, by virtue of this proceeding. It is further **ORDERED** that said Order shall also be recorded in the name of the **United States of America, as Grantee**, and in the name(s) of **Kelvin Freeman, as Grantor**, and said recordation shall be cross-referenced in release of the Notice(s) of Lis Pendens previously recorded on or about June 13, 2008, as:

<u>Instrument #.or Book #</u>	<u>Page Nos.</u>
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(F) The Clerk of this Court shall provide copies to all counsel of record, and shall certify Three copies (for recordation in state court), to the United States Attorney's Office, Asset Forfeiture Section, P.O. Box 1709, Roanoke, Virginia 24008.

ENTERED THIS 7th DAY OF October, 2009.

Norman L. Moon
UNITED STATES DISTRICT JUDGE

A TRUE COPY, TESTE:
JOHN F. CORCORAN, CLERK
BY [Signature]
DEPUTY CLERK