

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FOUR REAL PROPERTIES COMMONLY)
KNOWN AS 814 PITT AVENUE,)
SPRINGFIELD, ROBERTSON)
COUNTY, TENNESSEE: 4676)
HIGHWAY 41N, SPRINGFIELD,)
TENNESSEE: 204 LAWRENCE)
LANE, SPRINGFIELD, TENNESSEE,)
and 209 NEW CHAPEL)
ROAD, SPRINGFIELD,)
TENNESSEE and PROCEEDS FROM)
ANY SALE OF THE FOUR REAL)
PROPERTIES BY THE CURRENT)
OWNERS,)
)
Defendant.)
)
.....)
)
BART S. POSEY and ANGIE S. POSEY,)
Husband and Wife,)
)
)
Claimants.)

Civil No. 3:11-cv-00138
Judge Haynes
JURY DEMAND

*In Rem Civil Forfeiture
Action*

ANSWER OF CLAIMANTS BART S. POSEY AND ANGIE S. POSEY AND DEMAND
FOR JURY TRIAL

COME NOW the Claimants, **Bart S. Posey and Angie S. Posey**, husband and wife, by and through their undersigned counsel, and respectfully submit this *Answer* to the Complaint for forfeiture *in rem* in the above-captioned matter as follows:

1. Claimants admit that this is an *in rem* action for forfeiture of certain parcels of

real property but deny that the United States of America has any right to proceed against these parcels pursuant to the statutes invoked in this paragraph because Claimants deny that the parcels of real property were purchased with the proceeds of any illegal activity and demand strict proof thereof.

2. The Claimants acknowledge the operation of the statutes alleged in paragraph 2 but insist that the defendant property does not constitute nor is derived from proceeds of any specified unlawful activity.

3. The Allegations of Paragraph 3 are admitted.

4. The Allegations of Paragraph 4 are admitted.

5. The Allegations of Paragraph 5 are admitted.

6. The Claimants admit that the Pitt Avenue property is located within the Middle District of Tennessee and within the jurisdiction of this Court but deny that it is subject to seizure and forfeiture.

7. Paragraph 7 does not require a response.

8. The Allegations of Paragraph 8 are admitted.

9. The Allegations of Paragraph 9 are admitted.

10. The Allegations of Paragraph 10 are admitted.

11. The Claimants admit that the Highway 41 North property is located within the Middle District of Tennessee and within the jurisdiction of this Court but deny that it is subject to seizure and forfeiture.

12. No response is required to this paragraph.

13. The Allegations of Paragraph 13 are admitted.

14. The Allegations of Paragraph 14 are admitted.

15. The Allegations of Paragraph 15 are admitted.

16. The Claimants admit that the Lawrence Lane property is located within the Middle District of Tennessee and within the jurisdiction of this Court but deny that it is subject to seizure and forfeiture.

17. The Allegations of Paragraph 17 are admitted.

18. The Allegations of Paragraph 18 are admitted.

19. The Allegations of Paragraph 19 are admitted.

20. The Claimants admit that the New Chapel Road property is located within the Middle District of Tennessee and within the jurisdiction of this Court but deny that it is subject to seizure and forfeiture.

21. No response is required to this paragraph.

22. The Allegations of Paragraph 22 are admitted.

23. The Allegations of Paragraph 23 are admitted.

24. The Allegations of Paragraph 24 are admitted.

25. Claimants admit that there is an affidavit of FBI SA Susan E. McDavitt which is appended to the government's Complaint as *Exhibit 1* but Claimants deny the factual accuracy of all matters contained in the affidavit and, therefore, enter a general denial as to factual matters contained in the affidavit.

26. The Allegations of Paragraph 26 are denied.

First Affirmative Defense

The Complaint for forfeiture *in rem* fails to state a claim upon which relief can be granted.

Second Affirmative Defense

The Complaint for forfeiture *in rem* violates the Eighth Amendment's excessive fine clause.

WHEREFORE, having answered the Complaint, the Claimants pray that the Court will:

1. Impanel a jury for the trial of this matter.
2. Dismiss the Government's Complaint and enter judgment on behalf of the Claimants.
3. Deny issuance of a certificate of probable cause pursuant to 28 U. S. C. § 2465 and award cost and attorney's fees to the Claimants; and,
4. Provide such relief as the Court deems proper and just.

Respectfully submitted,

TUNE, ENTREKIN & WHITE, P.C.
Suite 1700, Regions Center
315 Deaderick Street
Nashville, TN 37238
(615)244-2770

S:/ Peter J. Strianse
PETER J. STRIANSE
Attorney for Claimants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent via the Court's electronic filing system, if registered, or, if unregistered in the Court's system, it has been sent via facsimile and deposited in the United States Mail, postage prepaid, to:

Debra T. Phillips
Assistant United States Attorney
110 Ninth Avenue South
Suite A961
Nashville, Tennessee 37203

This 6th day of May, 2011.

S:/ Peter J. Strianse
PETER J. STRIANSE