

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CONROE CREOSOTING COMPANY,  
CONROE CREDIT CORPORATION  
AND H.M. HAWTHORNE,

Plaintiffs,

v.

CIVIL ACTION NO. H-97-3556

MONTGOMERY COUNTY, TEXAS;  
J.R. MOORE, TAX ASSESSOR AND  
COLLECTOR OF MONTGOMERY  
COUNTY, TEXAS; MONTGOMERY  
COUNTY CONSTABLE PRECINCT NO. 2  
BILLY R. COLSON; FLOYD W. STEWART;  
DANNY VANCKHOVEN; JIMMY COX;  
JAMES EDWARD NASH; MALCOLM L.  
STOREY; M. KAYE APPLEWHITE; AND  
HEARD, GOGGAN, BLAIR & WILLIAMS,

Defendants.



**AFFIDAVIT OF MONTY HAWTHORNE**

THE STATE OF TEXAS §  
§  
COUNTY OF Harris §

BEFORE ME, the undersigned authority, on this day personally appeared Monty Hawthorne, who, after being by me duly sworn, deposes and states the following upon his own personal knowledge:

“My name is Monty Hawthorne. I am over the age of 18 and am fully competent to make this affidavit. Each statement made in this affidavit is within my personal knowledge and is true and correct.

1. The November of 1996, Ms. Applewhite and her husband asked for my support in her campaign for District Judge. I said I could not support her in that race.
2. In a conversation with Ms. Applewhite at a political rally in late January, 1997, I had explained that I was required to be out of town on March 13, 1997 meeting at 2:30 p.m. with a county agent in West Texas.
3. The paper served upon Conroe Creosoting was served at precisely the day and hour I had advised Ms. Applewhite I would be meeting in West Texas with the County

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agent. I do not consider this a coincidence. It is my belief that Ms. Applewhite was angry because I did not support her candidacy for judgeship and in fact, had a long history of support for other judges.

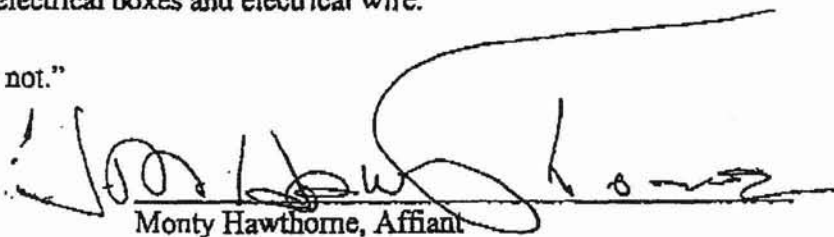
4. I believed, based on conversations with Mr. Moore, that Montgomery County would not proceed against me for delinquent taxes until the Company's environmental and financial problems had eased.
5. My sister was told by a district judge whom she called at the time of the seizure that the seizure was proper and by the time we were able to obtain information to find out the intent of the Defendants - a total liquidation, an auction by professionals necessitating considerable fees and a complete rearrangement of all the inventory in the yard, and boxing and scattering about of company records, including the destruction of the computers - it was too late to do anything about it.
6. At the time of the seizure, the Conroe Creosoting Company was worth \$7 ½ million. The land included over 150 acres, including a 25 acre lake with almost ½ mile of lake front.
7. The creosote plant facility is made up of the Company's and Conroe Credit's administrative buildings, a retail shop, numerous treatment facilities, and facilities for truck maintenance, facilities for stripping, cutting, sawing and stacking of timber and lumber, storage, three kilns, a boiler and numerous cylinders, tanks, millwork and other shops and sheds. Properties included numerous vehicles mainly for handling inventory and delivery.
8. By the time we were allowed limited access to the property, almost three weeks after the seizure, the company essentially had been put out of business. When we did regain access, we could find no company records that would allow us to begin billing for receivables, or identify and manage inventory. The boiler had been shut down and was damaged, and the CCA plant was flooded with contaminated water, because power was turned off and the sump pumps could not operate.
9. Someone, I do not know who, arranged to have large 40' trailers which we held under a lease/purchase arrangement, picked up by the leasing company, with a result that we lost our equity of some \$50,000 in those vehicles. The sale of those items, alone, would have gone far towards satisfying the judgment.
10. The furniture, word processor and file cabinet of Conroe Credit Corporation, which operated in an adjacent building, were all sold. When we first were allowed limited access, we found that the equipment of that business had been removed and prepared for sale, and we were unable to locate business records which would have allowed

us to begin to collect receivables factored to Conroe Credit by Conroe Creosoting Company. The copy machine of Conroe Credit had been damaged.

11. Among items belonging to me, not to Conroe Creosoting Company, which were taken or sold during the possession of the premises by the Defendants, contrary of our instructions, are the following:
  - a large barbeque pit, on wheels, for hauling behind a pickup truck or other vehicle
  - a pair of L.L. Bean hunting boots, a cowboy hat and hard hat
  - metal trusses, other building structures and specially treated plywood for the family residence in West Texas
  - certain unique lava rocks and boulders used in the construction of our home and for other decorative purposes
  - numerous family papers including wills, deeds, trust agreements, securities, and a silver dollar collection that were on the "family side" of the company safe
  - McCorquedale prints (five)
12. Also missing and not credited to the Company was \$40,000 in Company cash, kept in the Company safe, in four envelopes. The money had been in the safe since 1992 to meet payroll in case of difficulties with banks.
13. Neither I, nor to my knowledge any representative of the Company, was ever given notice of the alleged burglary at the premises by some third party, we were given no notice of the discovery of the nude slide (which was being identified incorrectly as my wife), nor of the discovery, opening and publication of very private notes I had taken from trial preparation materials of my wife's prior husband, apparently in anticipation of the divorce trial, in 1984 or 1985.
14. The auction sale produced an excessive \$361,000, to satisfy \$240,000 in claims, as shown on the attached receipt.
15. I first learned of the taking from the Company premises of a slide of a nude woman and a collection of very personal notes sealed in an envelope, when my attorney told me of the incident, following his conversation with Mr. Emmitt Houser, in the Fall of 1998. My reaction to the publication of the notes and identification of the slide as my wife is one of sadness, anger and hurt. In addition to the shame and embarrassment of the matters falsely attributed to me and my wife, and the disclosure of certain conduct and conditions which are factual, my relationship with my wife has been greatly strained. I believe the disclosures and false attributions contributed to the disrespect and abusive attitude with which we were treated by the defendants. I felt betrayed by law enforcement officials who are hired to protect me and my property. I no longer feel safe at the hands of some law enforcement agencies.

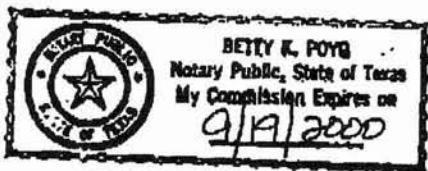
- 16. I know now that Mr. Houser had complained to the County Attorney's office about activities at the plant and the County Attorney did nothing. It's clear to me that we would have not received any relief from any quarter, even if we had understood the damage that was being done to us.
- 17. My counsel directed an order of sale which would have caused the vehicles to be offered among the first items, because we believed that the vehicles would generate sufficient revenue to satisfy the amount owed. In fact the vehicles were saved until the end of the sale, to retain the attention of the potential buyers. They were never sold.
- 18. At the sale, key elements of the plant were sold on a selected basis, making further operations and a restart of the business impossible.
- 19. We still have seen no record of total collections from the sale or disbursements.
- 20. The company premises was left in total disarray and the cleanup costs alone, not counting re-collecting inventory, machinery, etc. would have exceeded \$15,000. Fixtures had been stripped from buildings, including copper tubing, lead pipe electrical conduit, electrical boxes and electrical wire.

FURTHER Affiant sayeth not."

  
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 Monty Hawthorne, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME, this 25<sup>th</sup> day of February 1999.

[SEAL]



  
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 NOTARY PUBLIC IN AND FOR  
 THE STATE OF TEXAS