

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

MNP HOLDINGS, LLC, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.
	)	2007-900669
J. T. SMALLWOOD in his official	)	
capacity as Tax Collector of	)	
Jefferson County, Alabama, and	)	
BARRY STEPHENSON in his	)	
official capacity as Treasurer of	)	
Jefferson County, Alabama.	)	
	)	
Defendants.	)	
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**NOTICE OF PROPOSED CLASS SETTLEMENT**

This Class Notice is to inform you about a proposed settlement of a pending lawsuit brought on behalf of Jefferson County taxpayers whose properties have been sold for Overbids at Tax Sales and who have redeemed their properties. The Plaintiffs sued the Jefferson County Treasurer and the Jefferson County Tax Collector in their official capacities requesting the Court to order the Defendants to pay the interest on Excess Funds to Jefferson County taxpayers who redeem their properties. This Notice is being sent to you because you may be a member of the class described in Section I below. **THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.**

This Notice describes the class, the litigation and the proposed settlement. It provides information about the fairness hearing, informs you of right to object to this settlement, and describes how you can obtain additional information about this litigation and settlement. This Notice is not an expression by the Court as to the merits of any claim or defense asserted by the parties to this litigation. **You should read this Notice carefully since it affects your rights as a member of the class.**

**I. The MNP Class.**

If you own property in Jefferson County that was sold at a tax sale for an amount in excess of the amount owed for back-taxes and if you have redeemed your property, you may be a member of the *MNP* class, which is defined as:

All Jefferson County taxpayers whose property was sold within the 13 years before the filing of this action, or since that time, at a tax sale for delinquent ad valorem taxes owed by such owners, and which sale produced an excess over the taxes, interest, penalties and costs due, and who have redeemed said properties before a Final Judgment in this case, or other date determined by the Court.

This class shall not include claims based upon tax sales for the years between 1994 and 1998 by persons or entities who participated in *Maples v. Williams*, CV 98-05330.

## **II. Class Counsel**

David R. Donaldson and Tammy M. Stokes of DONALDSON & GUIN, LLC and W. Lewis Garrison, Jr. of HENNIGER GARRISON DAVIS, LLC have been appointed as Class Counsel for the *MNP* Class. Class Counsels' addresses and contact information are:

David R. Donaldson  
Tammy M. Stokes  
DONALDSON & Guin, LLC  
505 North 20<sup>th</sup> Street, Suit 1000  
Birmingham, AL 35203  
205-226-2282  
[www.dglawfirm.com](http://www.dglawfirm.com)  
[DavidD@dglawfirm.com](mailto:DavidD@dglawfirm.com)  
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W. Lewis Garrison  
HENNINGER GARRISON DAVIS, LLC  
2224 1st Avenue North  
Birmingham, AL 35203  
Telephone: (205) 326-3336  
Facsimile: (205) 326-3332  
[www.hgdlawfirm.com](http://www.hgdlawfirm.com)  
[wlgarrison@hgdlawfirm.com](mailto:wlgarrison@hgdlawfirm.com)

## **III. The *MNP* Class's Claims**

Pursuant to Rules 23(b)(1)(A) and 23(b)(2) of the Alabama Rules of Civil Procedure, the Judge has certified the Plaintiffs' claims for a judicial determination of the rights of Jefferson County taxpayers to be paid the interest earned on Excess Funds held by the Jefferson County Treasurer in the Redemption Fund. (The terms "Excess Funds" and "Redemption Fund" are discussed in Section IV below.)

## **IV. The Factual and Legal Background of the Case**

Each October, the Jefferson County Tax Collector mails ad valorem tax notices to the addresses of property owners as reflected on the Tax Assessor's records advising the recipients that ad valorem taxes should be paid by December 31st. A second notice is sent setting a deadline of February 15th of the following year to the addresses of those taxpayers who fail to pay by December 31<sup>st</sup>. If the tax remains unpaid after the February 15<sup>th</sup> deadline, the Tax Collector petitions the Jefferson County Probate Court to order a tax sale of those properties on which taxes have not been paid. Following entry of a Probate Court order, a notice is published in a local newspaper for three consecutive weeks. During May of each calendar year, the Jefferson County Tax Collector conducts tax sales of land whose owners have failed to pay the property tax due during the preceding year.

Tax sale purchasers ("Investors") often make Overbids – bids in excess of the taxes, interest, penalties and costs due – which result in excess funds being received by the Jefferson County Treasurer when properties are sold at tax sales. The Treasurer deposits the excess funds into a segregated account (the "Redemption Fund"), which earns interest.

Property owners, their heirs, or personal representatives, or any mortgagee or purchaser of property that is sold at a tax sale have the right to redeem the property for up to three years after the sale. When property is redeemed, in addition to paying all past-due amounts owed to the taxing authorities, the redeemer is also required to pay an amount equal to 12% interest on the Overbid. After redemption of the property, the Treasurer pays the excess funds, along with the 12% paid by the redeemer, to the Investor.

The interest earned on the redeeming taxpayers' excess funds while on deposit in the Redemption Fund is neither credited to the Taxpayer nor paid to the Investor. The accrued interest in the Redemption Fund on excess funds attributable to tax sales of properties that have been redeemed is approximately \$4 Million. The Plaintiffs in this litigation contend that the Taxpayers are the owners of the interest on the excess funds being held in the Redemption Fund.

## **V. The Proposed Settlement**

Barry Stephenson, the Jefferson County Treasurer, and J.T. Smallwood, the Jefferson County Tax Collector, have agreed to disburse the accrued interest in the Redemption Fund that is attributable to excess funds from tax sales of properties that have been redeemed (the *MNP* Settlement Fund). Each *MNP* Class Member will be entitled the Class Member's *pro rata* share of the *MNP* Settlement Fund, net of *MNP* Class Counsel's fees, incentive payments to the named Plaintiffs, Ruth Evans and *MNP* Holdings, LLC, and administrative fees of the *MNP* Class settlement, including mailing and publication costs (the "Net Distribution"). Moreover, the Defendants have agreed that, subject to any material changes in the governing law, they will pay accrued interest to taxpayers who redeem their properties in the future.

Checks for Net Distributions will automatically be sent approximately 90 days after final approval of the settlement to those Class Members who can be identified through the records of the Tax Collector, unless some other person files a claim pertaining to a putative class member's parcel. All disputes over who is entitled to a Net Distribution will be submitted to the Judge for resolution. If you are not listed on the Tax Collector's records as having redeemed a parcel sold at a tax sale for an overbid and if you believe that you are entitled to participate in the settlement, you should file a claim no later than May 5, 2008. To file a claim, you must sign a completed Claim Form and file the signed Claim Form in the Jefferson County Circuit Court Clerk's Office, whose address is in Section IX below. Claim forms are available at [www.jeffcotaxpayers.com](http://www.jeffcotaxpayers.com).

If you believe that you may be entitled to a Net Distribution and are unsure whether the Tax Collector's records reflect your name as an *MNP* Class Member, you may contact Class Counsel - listed in Section II above - to determine whether you should file a claim.

## **VI. Attorney Fees, Costs and Incentive Awards**

Class Counsel intend to apply to the Judge for an attorneys' fee award of one-third (1/3) of the *MNP* Settlement Fund, plus out-of-pocket litigation costs and expenses. For their services as class representatives, if the settlement is approved, Plaintiffs *MNP* Holdings, LLC and Ruth Evans will each be paid incentive awards of \$1,000 in addition to their respective Net Distributions. If awarded by the Judge, those payments will be made from the *MNP* Class's share of the Redemption Fund and shall be treated as a litigation expense.

## **VIII. Notice of Settlement Hearing.**

A fairness hearing has been scheduled before the Honorable Michael G. Graffeo, at Room 310, of the Jefferson County Courthouse, 716 Richard Arrington, Jr. Blvd., North, Birmingham, Alabama 35203 on March 6, 2008, at 1:30 P.M. to determine whether the proposed settlement is fair, reasonable and adequate and to consider the application of class counsel for attorneys' fees and reimbursement of expenses. The fairness hearing may be adjourned from time to time by the Judge and rescheduled without further written notice to the Class. At the fairness hearing, any *MNP* Class Member may appear in person or by counsel and be heard to the extent allowed by the Court in opposition to the fairness, reasonableness and adequacy of the Settlement, or the application for an award of attorneys' fees and reimbursement of expenses. Provided, however, that no person shall be entitled to appear at said hearing unless the person files with the Clerk of the Court, at Room 400, Jefferson County Courthouse, 716 Richard Arrington Jr. Blvd., Birmingham, AL 35203, notice of such person's intention to appear, together with a statement that indicates the basis for such opposition, along with any supporting documentation at least fourteen (14) days before the fairness hearing. Copies of all documents filed with the Clerk must also be mailed or delivered by hand to Class Counsel, whose addresses are set out in Section II above.

**IX. Additional Information.**

This Notice contains a summary of the litigation and the principal terms of the proposed settlement. You may obtain a copy of the full settlement agreement and other documents pertaining to the litigation on the Internet at [www.jeffcotaxpayers.com](http://www.jeffcotaxpayers.com). Documents pertaining to this litigation, including the Settlement Agreement, may also be inspected at the Office of the Clerk of the Court, Room 400, Jefferson County Courthouse, 716 Richard Arrington, Jr. Blvd., North, Birmingham, AL 35203, during regular business hours. **NO INQUIRIES SHOULD BE DIRECTED TO THE JUDGE .**

This Notice is sent by Order of the Honorable Michael G. Graffeo, Circuit Judge, Jefferson County, Alabama.