

In the United States Court of Federal Claims

Case No. 92-265C
FOR PUBLICATION
Filed March 6, 2008

REPUBLIC SAVINGS BANK,
FSB, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

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Summary Judgment; Standing;
Damages; Restitution.

David J. Hensler, Hogan & Hartson LLP, Washington, D.C., for Plaintiffs.

Elizabeth A. Holt, with whom were *David M. Cohen*, Director, and *Jeanne E. Davidson*, Deputy Director,, Commercial Litigation Branch, Civil Division, Department of Justice, for Defendant. *Ashley N. Bailey*, Trial Attorney, of counsel.

ORDER

The Court has received the February 27, 2008 Stipulation of Dismissal of Counts I, II, IV, and V of the Amended Complaint. Pursuant to the Stipulation of Dismissal and Rule 41(a) of the Rules of the United States Court of Federal Claims, it is hereby **ORDERED** that:

Counts I, II, IV, and V of the Amended Complaint are **DISMISSED**, with prejudice. The Clerk is directed to enter the dismissal of Counts I, II, IV, and V of the Amended Complaint.

In addition, on January 25, 2008, the Court entered an opinion in the above-captioned case (the "Opinion"). Following the issuance of the Opinion, the Court received a Joint Status Report from the parties informing the Court of new information relevant to the damages awarded in the Opinion. In accordance with the Opinion and the Joint Status Report, and with the understanding that filing the status report, the parties have preserved for appeal all contested issues raised in the Motions for Summary Judgment and Motions to Dismiss, it is hereby **ORDERED** that:

Plaintiffs' Motion for Summary Judgment as to Liability with respect to Defendant's counterclaim is **GRANTED** and Defendant's Cross-Motion for Summary Judgment with respect to Defendant's counterclaim is **DENIED**; Defendant's Motion to Dismiss Republic Savings Bank, F.S.B. is **DENIED**; Plaintiff's Motion for Summary Judgment as to Liability and Damages With Respect to Count III of the Amended Complaint is **GRANTED** and Defendant's Cross-Motion for Summary Judgment as to Liability and Damages is **DENIED**. Further, Plaintiff Meadows Resources, Inc. is **DISMISSED** with prejudice for lack of standing. The Clerk is directed to dismiss Meadows Resources, Inc. from the litigation.

The Court on this day filed an Amended Opinion which reflected the following changes:

- (1) The sentences on page 10 of the January 25, 2008 Opinion which read:

The Government's breach led to the seizure of Republic and eventually to the sale of that company to a third party for \$926,000. As this sum represents a profit resulting from the breach, it must be returned to the Plaintiffs.

was amended as follows:

The Government's breach led to the seizure of Republic and eventually to the sale of that company to a third party for \$926,000. As this sum represents a profit resulting from the breach, it must be returned to the Plaintiffs. In October 2004, the sum of \$284,940.71 was paid to Meadows Resources, Inc., an owner of preferred stock in Republic, as the final distribution of the Republic receivership. Therefore, Plaintiffs are entitled to an award in the amount of \$641,059.29, representing the difference between the profit recognized by the sale and the amount that has been returned to Meadows.

- (2) The sentence on page 12 of the January 25, 2008 Opinion which read:

Plaintiffs are **AWARDED** \$17 million for the value of their initial capital contribution minus the \$3 million cash contribution by the Government plus \$926,000 in restitution for a total damages award of \$14,926,000.

was amended as follows:

Plaintiffs are **AWARDED** \$17 million for the value of their initial capital contribution minus the \$3 million cash contribution by the Government plus \$926,000 in restitution, less \$284,940.71 that already has been returned, for a total damages award of \$14,641,059.29.

Plaintiffs Republic Savings Bank, F.S.B., Republic Holding Company, and MCB Financial Group, Inc. are hereby **AWARDED** \$14,641,059.29 pursuant to the March 6, 2008 Opinion.

The Clerk shall enter **FINAL JUDGMENT** consistent with this order.

IT IS SO ORDERED.

s/Loren A. Smith

LOREN A. SMITH
SENIOR JUDGE