

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

| | |
|---------------------------|----------------------------------|
| HAROLD B. RICE, | : |
| Plaintiff | : |
| | : |
| vs | : No. 04-00,225 |
| | : |
| COMPRO DISTRIBUTING, INC. | : |
| t/d/b/a TC CONSTRUCTION & | : |
| DEVELOPMENT CO., and | : |
| LYCOMING COUNTY TAX | : |
| CLAIM BUREAU, | : PETITION TO SET ASIDE TAX SALE |
| Defendants | : NON-JURY TRIAL AJUDICATION |

Date: June 24, 2005

FINDINGS of FACTS

1. Harold B. Rice, Plaintiff (hereafter sometimes “Rice”) was the owner of two parcels of land in Nippenose Township, Lycoming County, Pennsylvania, known as Tax Parcel Nos. 42-387-114 and 42-387-115. The parcels are unimproved rural land.
2. As of September 18, 2003, Rice was delinquent in paying his real estate taxes on both parcels, in that, he owed the 2001 school real estate tax on both parcels. He also had not paid the 2002 County, Township and School real estate taxes on both parcels.
3. On September 18, 2003, the Lycoming County Tax Claim Bureau conducted an upset tax sale for properties with delinquent unpaid taxes for the year 2001; the sale included the two parcels of Rice above mentioned.
4. The total 2001 taxes and costs accrued for parcel 42-387-114 at the time of the sale was \$332.38, the “upset price” of the property.
5. The total 2001 taxes and costs accrued for parcel 42-387-114 at the time of the sale was \$306.00, the “upset price”.
6. On September 18, 2003, the Defendant Tri County Realty of 2524 West Fourth Street, Williamsport, Pennsylvania, was the successful bidder for both parcels of real estate, bidding and paying \$332.28 for parcel number 42-387-114, and \$1,500.00 for parcel number 42-387-115.
7. After the sale and before the deed was prepared by the Lycoming County Tax Claim Bureau, Tri County Realty requested the Tax Claim Bureau to prepare the deed conveying the real estate not to Tri County Realty, but rather to the Defendant Compro, which the Tax Claim Bureau did.

8. A Consolidated Return was prepared and filed by the Tax Claim Bureau on October 2, 2003.
9. A Decree Nisi was signed by the Court on October 14, 2003 based on the Consolidated Return.
10. A Decree of Absolute Confirmation of the upset tax sale was entered by the Lycoming County Prothonotary on November 19, 2003.
11. Overbid funds in the amount of \$1,194.00 were distributed by the Tax Claim Bureau to Rice, on April 14, 2004.
12. Rice filed his Petition to Set Aside Tax Sale on February 11, 2004.
13. Rice resides at 512 Pinnacle Lane, Mifflinburg, PA 17844, and has resided there since May of 2000.
14. Until May 2000, Rice received mail at P.O. Box 295, Montoursville, PA 17754.
15. In May 2000, Rice filed a change of address form with the Montoursville Postmaster reflecting his Mifflinburg address.
16. Prior to the Upset Sale of the two above referenced parcels on September 18, 2003, the Lycoming County Tax Claim Bureau attempted to give all of the required notices regarding delinquent real estate taxes and of the sale by publication and, by mail addressed to Harold B. Rice at his P.O. Box 295, Montoursville address. When the mail receipts were returned marked undeliverable as addressed, the Tax Claim Bureau proceeded to post the two properties as required by the Real Estate Tax Sale Law, 72 P.S. § 5860.101, et seq. There is no evidence as to specifically where on each property the posting was made nor how long it remained visible.
17. While the property was owned by Rice, he relied on his wife to pay real estate tax bills, along with other household bills. Mrs. Rice died in 2001.
18. Both properties were in the tax abatement program known as "Clean & Green", reducing the taxes to a modest level.
19. The 2001 unpaid school taxes on Tax Parcel No. 114 were \$22.97, and on Parcel No. 115 were \$15.31.
20. In February 7, 2002, the Tax Claim Bureau sent a notice to Rice at P.O. Box 295, Montoursville, PA 17754 to the effect that the 2001 school real estate taxes were delinquent and should be paid to the Tax Claim Bureau.
21. Rice did not receive this February 7, 2002 notice or any of the subsequent notices described herein.

22. Beginning with the February 7, 2002 notice, the Post Office returned all notices sent by the Tax Claim Bureau to Rice and indicated that the mail was not deliverable.
23. Subsequent notices were mailed to Rice at the Montoursville post office box by the Tax Claim Bureau on April 24, 2004; June 5, 2003; and August 28, 2003.
24. None of the aforementioned notices were actually received by Rice, and all were returned as undeliverable by the Post Office to the Tax Claim Bureau. In addition, the notice mailed August 28, 2003 was returned with the marking "F.O.E." This post office marking was understood by the Tax Claim Bureau to mean that a forwarding address order had expired.
25. Until the return of the notice dated August 28, 2003, the Tax Claim Bureau had made no effort to ascertain Rice's address, except to verify with the County Assessment Office that the P.O. Box 295, Montoursville, PA address corresponded with the owner's address as shown on the assessment records. The assessment record check had verified the same address.
26. The efforts made by the Tax Claim Bureau in response to the notice of August 28, 2003 in an effort to locate Harold B. Rice, consisted of the following:
 - A. Checking two local telephone directories for the Williamsport Area;
 - B. Checking the address on file with the Lycoming County Assessment Office;
 - C. Checking records to see if there were any filings or markings on files that would determine a more accurate address in the Office of the Prothonotary and the Recorder of Deeds of Lycoming County;
 - D. Checking the Pennsylvania criminal record computer index known as "J-Net". This would have revealed any Harold B. Rice holding a Pennsylvania driver's license and his address.
27. Of the foregoing, "A", "B", and "C" meet the minimum statutory search requirements set forth in the Real Estate Tax Sale Law 72 P.S. Section 5860.607a; "D" is beyond the mandatory minimum search required by the statute.
28. All the efforts made to locate an address for Harold B. Rice conducted by the Tax Claim Bureau were negative.
29. Harold B. Rice is a registered Pennsylvania voter; the voter registration records of the County he resides in reflect his current address.
30. Harold B. Rice is currently listed in the Mifflinburg area telephone book. In addition, his name, address, and telephone number appear correctly in an internet search for telephone number and address conducted on April 6, 2005.

31. In November 2003, 21st Century Appraisals contracted with Lorton Information Services to update the Lycoming County Assessment Office mailing addresses of property owners. The update performed by Lorton including comparing addresses to the NCOA (National Change of Address) database.
32. As a result of the work done by Lorton Information Services, Inc., Harold B. Rice's correct address was ascertained and became part of the Lycoming County assessment records in November 2003.
33. At the time of the tax sale in September 2003, the Tax Claim Office was not aware of and did not use the NCOA. The state-wide voter registration data base through Lexis-Nexis was not available in September 2003.
34. In August and September of 2003, the Tax Claim Office did not use internet telephone directories to conduct searches. At that time, the Tax Claim Office Director, Thomas Heap, would have been familiar with internet telephone directories from his personal use. The Tax Claim Office now uses internet telephone directories.
35. When the February 2002 notices of delinquent taxes were sent out approximately 5,600 properties were given notice. In July 2003 when the tax sale notices were sent approximately 1,200 to 1,300 properties remained delinquent and on the sale list. At the time of the September 2003 tax sale, approximately 150 properties were actually exposed to sale.
36. The work relating to tax sale and notices is handled by two employees in the Tax Claim Office.
37. On February 10, 2003, the Tax Claim Office had sent a notice to Harold B. Rice at his Montoursville Post Office address concerning unpaid 2002 taxes on his properties. This notice was returned to the Tax Claim Office marked undeliverable but also had the notation F.O.E., indicating an expired forwarding order.

DISCUSSION and LEGAL AUTHORITY

The Lycoming County Tax Claim Bureau freely admits in its brief that where a landowner seeks to upset a tax sale the burden of proving compliance with statutory notice provisions of the Real Estate Tax Sale Law lies with the Bureau. *Geier v. Tax Claim Bureau of Schuylkill County*, 570 A.2d 134, 136 (Pa. Cmwlth. 1990), *aff'd*, 588 A.2d 480 (1991). The specific statutory requirements are as follows:

§ 5860.602 Notice of Sale

- (a) At least thirty (30) days prior to any scheduled sale the bureau shall give notice thereof, not less than once in two (2) separate newspapers of general circulation in the county, if so many are published therein, and once in the legal journal, if any, designated by the court for the publication of legal notices. Such notice shall set forth (1) the purposes of such sale, (2) the time of such sale, (3) the place of such sale, (4) the terms of the sale including the approximate upset price, (5) the descriptions of the properties to be sold as stated in the claims entered and the name of the owner.
- (b) Where the owner is unknown and has been unknown for a period of less than five years, the name of the owner need not be included in such description.
- (c) The description may be given intelligible abbreviations.
- (d) Such published notice shall be addressed to the “owners of properties described in this notice and to all persons having liens, judgments or municipal or other claims against such properties.”
- (e) In addition to such publications, similar notice of the sale shall also be given by the bureau as follows:
 - (1) At least thirty (30) days before the date of the sale, by United States certified mail, restricted delivery, return receipt requested, postage prepaid, to each owner as defined by this act.
 - (2) If return receipt is not received from each owner pursuant to the provisions of clause (1), then, at least ten (10) days before the date of the sale, similar notice of the sale shall be given to each owner who failed to acknowledge the first notice by United States first class mail, proof of mailing, at his last known post office address by virtue of the knowledge and information possessed by the bureau, by the tax collector for the taxing district making the return and by the county office responsible for assessments and revisions of taxes. It shall be the duty of the bureau to determine the last post office address

known to said collector and county assessment office.

- (3) Each property scheduled for sale shall be posted at least ten (10) days prior to sale.
- (f) The published notice, the mail notice and the posted notice shall each state that the sale of any property may, at the option of the bureau, be stayed if the owner thereof or any lien creditor of the owner on or before the actual sale enters into an agreement with the bureau to pay the taxes in installments, in the manner provided by this act.
- (g) All notices required by this section other than the newspaper notice and notice in legal journal shall contain the following provision which shall be conspicuously placed upon said notices and set in at least 10-point type in a box as follows:

WARNING

“YOUR PROPERTY IS ABOUT TO BE SOLD WITHOUT YOUR CONSENT FOR DELINQUENT TAXES. YOUR PROPERTY MAY BE SOLD FOR A SMALL FRACTION OF ITS FAIR MARKET VALUE. IF YOU HAVE ANY QUESTIONS AS TO WHAT YOU MUST DO IN ORDER TO SAVE YOUR PROPERTY, PLEASE CALL YOUR ATTORNEY, THE TAX CLAIM BUREAU AT THE FOLLOWING TELEPHONE NUMBER _____, OR THE COUNTY LAWYER REFERRAL SERVICE.”

§ 5806.607a Additional notification efforts

- (a) When any **notification of a pending tax sale** or a tax sale subject to court confirmation is required to be mailed to any owner, mortgagee, lien holder or other person or entity whose property interests are likely to be significantly affected by such tax sale, and such mailed notification is either returned without the required receipted personal signature of the addressee or under other circumstances raising a significant doubt as to the actual receipt of such notification by the named addressee or is not returned or acknowledged at all, then, before the tax sale can be conducted or confirmed, the bureau must exercise reasonable efforts to discover the whereabouts of such person or entity and notify him.

The Bureau's efforts shall include, but not necessarily be restricted to, a search of current telephone directories for the county and of the dockets and indices of the county tax assessment offices, recorder of deeds office and prothonotary's office, as well as contacts made to any apparent alternate address or telephone number which may have been written on or in the file pertinent to such property. When such reasonable efforts have been exhausted, regardless of whether or not the notification efforts have been successful, a notation shall be placed in the property file describing the efforts made and the results thereof, and the property may be rescheduled for sale or the sale may be confirmed as provided in this act.

- (b) The notification efforts required by subsection (a) shall be in addition to any other notice requirements imposed by this act.

72 P.S. § 5860.602(a)-(g); 72 P.S. § 5860.607a (a),(b).

It is clear in Pennsylvania that the primary goal of the Tax Sale Law notice provisions is to insure that property owners are not deprived of their property without full due process. The Pennsylvania Supreme Court, as recently quoted by the Pennsylvania Commonwealth Court of Pennsylvania in the case of *Smith v. Tax Claim Bureau of Pike County*, 834 A.2d 1247 (Pa. Cmwlth. 2003), has made the following declaration as to the relationship of tax sales to citizen's due process rights:

Somehow, over the years, taxing authorities have lost sight of the fact that it is a momentous event under the United States and the Pennsylvania Constitutions when a government subjects a citizen's property to forfeiture for the non-payment of taxes. We have had occasion to note that we hold no brief with willful, persistent and long standing tax delinquents, but at the same time, we have also observed that the "strict provisions of the Real Estate Tax Sale Law were never meant to punish taxpayers who omitted through oversight or error...to pay their taxes." *Ross Appeal*, 366 Pa. 100, 107, 76 A.2d 7499, 753 (1950). As this Court stated in *Hess v.*

Westerwick, “the purpose of tax sales is not to strip the taxpayer of his property but to insure the collection of taxes.” 366 Pa. 90, 98, 76 A.2d 745, 748 (1950). The collection of taxes, however, may not be implemented without due process of law that is guaranteed in the Commonwealth and federal constitutions; and this *due process, as we have stated here, requires at a minimum that an owner of land be actually notified by government, if reasonably possible, before his land is forfeited by the state. Tracy v. County of Chester Tax Claim Bureau*, 507 Pa. 288, 297, 489 A.2d 1334, 1339 (1985) (emphasis added). Accordingly, the Tax Claim Bureau has the burden of showing compliance with the statutory notice provisions set forth in both Section 602 and Section 607.1 of the Real Estate Tax Sale Law.

834 A.2d at 1252.

The *Smith* case is particularly instructive as to the application of the Real Estate Tax Sale Law in the case before us in several other ways. In *Smith* an issue arose as to whether the wife who had moved out of the marital home was entitled to separate tax sale notice from that given to her husband when a property titled in both names was being sold. The Commonwealth Court held that Section 607(a) of the Real Estate Tax Sale Law came into play because a signed receipt from the wife was not returned to the Bureau. Therefore, the Bureau was required to undertake reasonable efforts to locate her. The Commonwealth Court specifically rejected the Tax Claim Bureau’s contention that somehow it was the wife’s fault for moving without notifying the Bureau. *Smith* specifically stated in its reasoning:

The Law, however, imposes duties not upon owners but upon the agencies responsible for real estate tax sales. Notice to owners of an impending sale of their properties is a duty requiring strict compliance in order to guard against the deprivation of property without due process. *McElvenny v. Bucks County Tax Claim Bureau*, 804 A.2d 719 (Pa. Cmwlth. 2002). Thus, the focus is not on the alleged neglect of the owner, which is often present in some degree, but on whether the activities of the Bureau comply with the requirements of the statute. *Chester County Tax Claim Bureau v.*

Griffith, 113 Pa. Commw. 105, 536 A.2d 503 (Pa. Cmwlth. 1988). Mrs. Smith did not have a duty to give the Bureau notice of her address change.

834 A.2d at 1251

Smith further observed in its discussion and ruling that even if the mandated search conducted under the Real Estate Tax Sale Law would not have revealed an appropriate address for the owner this cannot be used as an excuse by the Tax Claim Bureau for failing to follow the statutorily required procedures. The Commonwealth Court stated:

Whether the statutory task is pointless does not excuse its attempted performance. The Bureau's argument that pursuing the statutory requirements for additional notice of a tax sale would not have made a difference is mere speculation. See, *Sabarese v. Tax Claim Bureau of Monroe County*, 69 Pa. Commw. 442, 451 A.2d 793 (Pa. Cmwlth. 1982) (rejecting a taxing bureau's argument that even if it had sent the notices as statutorily required, the notices would not have been received).

834 A.2d at 1282

There can be no question that the burden placed upon the tax claim bureaus by the Real Estate Tax Sale Law and our Constitution to see that notice is actually given to owners is tremendous. Even in counties as small as Lycoming, it is clear that each year at the outset it is a significant task to give notice each February to some 5,000 to 6,000 properties which annually are returned to the Tax Claim Bureau for delinquent taxes. The Tax Claim Bureau in Lycoming County, as no doubt in others throughout the State, does a wonderful job of whittling down the number of the properties that eventually have to be exposed to sale. This includes many efforts that are not actually required by the Statute. For instance, in this case, a November 2002 reminder letter was sent attempting to notify Mr. Rice that his taxes had not been paid, were past due, and were now payable to the Tax Claim Bureau. At that time, the Tax Claim Bureau had so many properties that it could not be expected to do anything more

than to utilize the best address that it had available from its records as well as the Lycoming County Assessment records.

Unfortunately, there is also no question that as the tax sale process proceeded the notice given to Harold B. Rice was deficient because the Tax Claim Bureau failed to comply with the requirements of constitutional due process and the Real Estate Tax Sale Law provisions concerning the exercise of reasonable efforts to notify the owner of the pending tax sale. There is no dispute that when the initial notices concerning the 2001 Delinquent Taxes on the Rice properties were sent out that they were returned undeliverable with no indication that there had ever been a forwarding address for Rice. This is clear as to the extra reminder notice that had been mailed in November of 2002, the required initial notice sent in February 2002, as well as the required initial notice of Public Sale sent in June of 2003. In relation to the 2001 taxes, for which the property was subsequently sold in September of 2003, the first hint that there might be some additional information available to the Tax Claim Office appears to have occurred in August 2003 when the ten (10) day notice prior to sale was returned with an indication that not only was it undeliverable with the wrong box number, but also with an indication from the Post Office that the forwarding order had expired. The court further finds significant that in February of 2003, when the Tax Claim Bureau had attempted to notify Mr. Rice that it was seeking collection of the 2002 taxes on his properties, that its notice had been returned also indicating that the forwarding order had expired. This certainly was “file” information pertinent to the Rice properties envisioned by § 5806.607a (a) of the Real Estate Tax Sale Law as being information to be investigated in the search for an owner. There is no testimony that this “file” record was ever checked or noted by the Tax Claim Bureau at anytime prior to the September 2003 sale. Clearly from both or either of these notices the Tax Claim Bureau knew

that the Montoursville, Pennsylvania Post Office at one time had a forwarding order for Mr. Rice's correct address. In fact, the testimony of the Tax Claim Bureau acknowledged this awareness.

The Montoursville Post Office is in a relatively small borough and no doubt several of its employees may have had an acquaintance with Mr. Rice, especially since he had been a box holder. At that point, a simple telephone call to the Montoursville Post Office may have revealed some information or someone in that relatively small post office who had some knowledge or had retained some records whereby Mr. Rice's appropriate new address could have been obtained. The court believes it would have been reasonable for the Tax Claim Bureau to make such a call to the Montoursville Post Office, particularly after the August 2003 Public Tax Sale Notice was returned. This is especially true, in that, as the tax sale date approached, approximately 150 properties remained on the list. There is no evidence how many of these remaining properties may have also had unknown addresses for the owners. The number of properties exposed to sale was not so great as to preclude this type of inquiry.

Even though it might be argued that reasonable business practices would have required the Tax Claim Bureau to commence a more detailed search other than the statutory mandated minimum searches when it had knowledge of an expired forwarding order for Harold B. Rice in February 2003, there is no question that the Tax Claim Office knew it had such a responsibility when it received the forwarding order expired notice in August of 2003. In fact, the Tax Claim Office went beyond the statutory mandates at that time and did a computer search on the Pennsylvania J-Net in an attempt to see if Mr. Rice could be located, particularly through driver license records that would be available from that source although it is not clear whether it did so as a matter of routine procedure or specifically for Mr. Rice. The J-Net search was not

successful. The court does not believe this one-step effort beyond the statutory minimum requirements which the Tax Claim Bureau conducted to locate an address for Mr. Rice is sufficient under the circumstances. Those circumstances certainly do include the long history of Mr. Rice's ownership and the long pattern of paying taxes without delinquency; however, that in of itself is but a minor indicator of the requirements put upon the Tax Claim Bureau. This is because even if a property owner is habitually delinquent or is a relatively brief owner of the property the impact of losing the property is the same and all property owners are entitled to the same due process rights.

This court is satisfied that the Tax Claim Bureau did act in good faith in this matter. It may be given that the press of business and relatively few number of staff, two, available to carryout the tax sale procedures may have made the work difficult, but there was no testimony that the Tax Claim Office personnel were so overwhelmed or their work load such that doing anything more was impossible. With no evidence introduced into the record to that effect, this court believes that reasonable business practices would have required the Tax Claim Bureau to do more..

Specifically in this case, the "more" which could have been done should have consisted of contacting the local Tax Collector and using the internet telephone directory. There is no evidence that the local Tax Collector was contacted to find out whether that person had any knowledge as to how Mr. Rice might be contacted or if there were others in this Tax Collector's relatively small and rural community who might have some knowledge of Mr. Rice's whereabouts or why it was that his mail was undeliverable in Montoursville. Perhaps an even more reasonable approach would have been the use in September 2003 of the internet

telephone directory to attempt to locate Mr. Rice prior to the sale, as well as others for whom the Tax Claim Bureau had no valid address.

This court is aware that in the case of *Ruffner v. Beagly*, 828 A.2d 425 (Pa. Cmmwlth. 2003, *aff'd*. 859 A.2d and 471 (Pa. 2004.) the Commonwealth Court of Pennsylvania did not find the Allegheny Tax Claim Bureau to be in error for failing to conduct an internet search to locate a owner in a 2001 tax sale. In that case, however, there does not appear that a new address for the owner was the real issue. Nevertheless, while it may be that the court in *Ruffner* and the statute do not explicitly require the use of an internet telephone directory search, the use of this searching technique cannot be said to be an unreasonable business practice, particularly as it would apply to the 2003 tax sale at issue in this case. Instead, this court believes doing so would have been extremely reasonable as a time efficient and comprehensive way in which the Tax Claim Bureau could locate addresses for owners with unknown addresses.

It is clear that the Lycoming County Tax Claim Bureau Director was aware of the use of internet telephone directories in 2003, for personal matters. There is no logical reason why an internet search was not used for Tax Claim Office business in 2003. The Tax Claim Office had computer internet access. In fact, the use of the internet directory might be more expedient than the looking in the two telephone directories that were utilized in this case manually. It certainly was no more difficult than using the J-Net system and perhaps even more easily done as a special computer system would not be required. Further, it is clear that the statutes suggest that telephone directories might be a viable source of information. The court believes that businesses in 2003 who wanted to locate someone who owed them money certainly would not have hesitated typing that persons name into an internet telephone directory search base from

the computer sitting on most office desks. Again, whether or not such search would have been successful is not the point, the point is the law requires reasonable efforts to be utilized.

In this regard, the court notes that the testimony Mr. Rice, while suggesting that he would have been located by such a search, certainly does not clearly establish that in 2003 at the time of the sale he would have been so located. It is, however, certainly persuasive that he was the only Harold B. Rice to turn up in such a search that was conducted in April of 2005. Regardless, the burden is not upon Mr. Rice in this case, the burden is upon the Tax Claim Bureau.

This court also finds the Pennsylvania Rules of Civil Procedure relating to locate and give notice to individuals with unknown addresses when a lawsuit is commenced against them, instructive as to what is meant when the law requires “reasonable efforts” be made. Certainly the due process rights owed to a landowner about to be deprived of his property because of delinquent taxes, whether modest in amount, as in this case, or significant in amount, should be afforded the same due process standards afforded those about to be ensnared in litigation. Both require a reasonable good faith effort to locate the whereabouts of the unknown party. Pa. R.C.P. 430 provides that in commencing a suit against a defendant who can not be located, the court must issue a special order directing the manner of service. Rule 430 directs the motion requesting that relief should, “...be accompanied by an affidavit stating the nature and extent of the investigation which has been made to determine the whereabouts of the defendant and the reasons why service cannot be made.” Pa. R.C.P. 430 (a). The comment to the rule illustrates what our Supreme Court meant in adopting this rule, as it provides:

An illustration of good faith effort to locate the defendant includes (1) inquiries of postal authorities including inquiries pursuant to the Freedom of Information Act, 39 C.F.R. part 265,

(2) inquiries of relatives, neighbors, friends and employers of the defendant, and (3) examinations of local telephone directories, voter registration records, local tax records, and motor vehicle records.

The comments' reference to "good faith" enunciates a well recognized standard as to what reasonable efforts to locate an unknown address include, in order to satisfy due process needs. As discussed above, there is no indication the Tax Claim Bureau made any inquiry of a postal authority in this case. There was no inquiry of relatives, neighbors, friends, or employers, such as perhaps obtainable through the Tax Collector of the township. Local telephone directories were examined. Local voter registration records were not examined. (Unfortunately it appears from the testimony that there was no state-wide voter registration record available in 2003.) The local Tax Office records were examined, although no separate inquiry was made to the Tax Collector's. Driver licensing records were sought through J-Net, but there was no inquiry as to motor vehicle records.

It has been observed by this court that motions before us seeking to apply Rule 430 routinely have had internet searches attached, whether conducted by a professional locating service or conducted by a staff member of an attorney's office. This court has found those searches to be meaningful. In 2003, the search by internet for individuals had become a well accepted reasonable business practice expected by this court. In addition, this court has often rejected applications for relief under Rule 430 where such searches have not been carried out, particularly, where there has been no inquiry of the postal authority to determine if there is information available, such as a forwarding order and where there has been no inquiry of relatives, neighbors, friends, and others who might have some personal knowledge of the individual's current address.

Therefore, although the court believes that the Tax Claim Bureau has acted in utmost good faith, the court is also satisfied that it has not met its burden of demonstrating that it used reasonable efforts to discover the proper address for Harold B. Rice. Accordingly, the court must enter an Order as requested by Mr. Rice and strike this sale.

CONCLUSIONS of LAW

1. Harold B. Rice did not have actual notice of the September 18, 2003 Tax Sale of his property.
2. The Tax Claim Bureau's efforts to give Harold B. Rice notice of the September 18, 2003 did not comply with the Real Estate Tax Sale Law, 72 P.S. Section 5860.607a in that the Lycoming County Tax Claim Bureau did not exercise reasonable efforts to discover the whereabouts of Harold B. Rice and give him notice of the sale and did not exhaust such reasonable efforts as required by the statute.
3. The September 18, 2003 Real Estate Tax Sale as to Tax Parcels No. 42-387-114 and 42-387-115 must be invalidated.
4. The Tax Sale Law provision concerning directing a resale of the property, 72 P.S. § 5860.607(e) do not apply because upsetting the sale and re-vesting Harold B. Rice with title to the parcels and requiring him to pay the delinquent taxes amenably cures the defect of inadequate notice and satisfies the tax debt.

ORDER

The September 18, 2003 Real Estate Tax Sale of Lycoming County Tax Parcel Nos. 42-387-114 and 42-387-115, Harold B. Rice, Owner, is hereby set aside.

Harold B. Rice shall repay any sale proceeds he has received to the Lycoming County Tax Claim Bureau.

Harold B. Rice shall pay to the Lycoming County Tax Claim Bureau the amount of delinquent taxes owed on parcel nos. 42-387-114 and 42-387-115.

The Lycoming County Tax Claim Bureau shall return to the successful bidder the amount paid by the bidder at the September 18, 2003 tax sale for each parcel.

It is further ordered that a copy of this Order, after it has become final, be recorded in the Office of Recorder of Deeds for Lycoming County. Harold B. Rice shall be listed as grantee in its indexes. Defendants, Compro Distributing, Inc. t/d/b/a TC Construction and Development Company, and Lycoming County Tax Claim Bureau, as grantors. The costs of recording shall be paid by Harold B. Rice.

BY THE COURT,

William S. Kieser, Judge

cc: Fred A. Holland, Esquire
Peter Burchanowski, Esquire
Judges
Christian J. Kalas, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)