

ORIGINAL

STATE OF NORTH DAKOTA

20020254

in the Supreme Court

RECEIVED BY CLERK
SUPREME COURT
JAN 27 '03
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IN THE OFFICE OF THE
CLERK OF SUPREME COURT

Supreme Court Case No. 20020254

Burleigh County Case No. 01-C-01894

JAN 27 2003

STATE OF NORTH DAKOTA

Valley Honey Company, LLC.,

Plaintiff/Appellee,
and Cross-Appellant,

vs.

Rebecca Graves,

Defendant,

and,

Larry Young,

Defendant/Appellant,
and Cross-Appellee.

Reply Brief of Appellant and Cross-Appellee
and Addendum

On an appeal of a memorandum opinion, dated July 12, 2002; a findings of fact, conclusions of law, order for judgment, and judgment, dated July 19, 2002, with notice of entry of judgment dated July 23, 2002; and a writ of restitution, dated July 19,

District Judge; Burt L. Riskedahl.

Submitted by: Larry Young, Appellant and
Cross-Appellee,
c/o 246 700 South 12th Street,
Bismarck,
North Dakota 58504

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Statement of the Venue

The subject real property is located within the confines of Burleigh County, North Dakota, and the subject recorded instruments, certain quit claim deeds, are recorded at the Recorder's Office in Bismarck, Burleigh County, North Dakota. Appellant Larry Young is a resident of Burleigh County, North Dakota.

Statement of the Jurisdiction

North Dakota Century Code, § 47-19-41 states in part the following;

No action affecting any right, title, interest or lien, to, in or upon real property shall be commenced or maintained or defense or counterclaim asserted or recognized in court on the ground that a recorded instrument was not entitled to be recorded. The record of all instruments whether or not the same were entitled to be recorded shall be deemed valid and sufficient as the legal record thereof.

The jurisdiction for this appeal is conferred upon the North Dakota Supreme Court by the filing of a Notice of Appeal, Dated September 18, 2002, pursuant to provisions of The North Dakota Constitution, Article VI, Section 6; and the North Dakota Rules of Appellate Procedure, Rule 1, et seq.

Statement of the Authorities

The North Dakota Constitution:

Article VI, Section 6; ii

The North Dakota Century Code:

§ 9-06-07 2,5
§ 47-09-07 2,5
§ 47-10-05.1 3

The North Dakota Rules of Appellate Procedure:

Rule 1 ii

Applicable case-law:

Gajewski v. Bratcher,
221 N.W. 2d 614 (N.D. 1974) 2,5,7
Hedges v. Dixon County,
150 U.S. 182, 14 S. Ct. 71 (1983). 3
Wade v. Major,
162 N.W. 399 (N.D. 1917) 4

Reply Argument; and the Law

The attorney for the named appellee, and cross-appellant Valley Honey Company, LLC., Mr. James J. Coles, seemingly attempts to make interesting arguments in the appellee brief, and perhaps if the Court would entirely ignore the facts, and deviate from established law, attorney Coles could obtain some form of relief for his client, however, attorney Coles presents no citation, law, or precedent which would affirm or allow his requested forms of relief.

To Young's Issue and Argument on Appeal

Coles alleges and expresses disapproval at page 9 of his appeal brief that Young did not place enough emphasis and reference on "the trial record which includes the trial testimony."

Unfortunately for attorney Coles, and his alleged client, the appeal issues from the memorandum opinion, a findings of fact, conclusions of law, order for judgment, and judgment, and an alleged special execution, in which it is plainly stated that the findings are primarily based on "the testimony of Clark B. Stott", the grantor of the subject quit claim deed, and a finding that the quit claim deed was "essentially a conditional sales contract."

It is a well settled matter of the law in the State of North Dakota that a grantor may testify in support of a deed, but any testimony against the deed by a grantor is inadmissible and incompetent.; N.D.C.C., § 47-10-08; Gajewski v. Bratcher, 221 N.W. 2d 614 (N.D. 1974).

It is also a well settled matter of the law in the State of North Dakota that the delivery of a grant cannot be made conditionally.; N.D.C.C., § 9-06-07; § 47-09-07, and Gajewski, supra.

To issue of land title

Any allegation that Clark B. Stott lacked authority to grant the quit claim deed is directly controverted by reference to the Domestic and Foreign limited Liability Company Annual Report filed with the Office of the North Dakota Secretary of State, dated November 13, 2000, wherein it is shown that Clark B. Stott is the President of Valley Honey Company, LLC. (A copy of the Annual Report is attached hereto in the Addendum to this Brief, Page Add-1, and the Appellants Appeal Appendix, Page App-64)

Personnel at the North Dakota Secretary of State's Office stated that the Annual Report is reflective of the facts of the corporation, or limited liability company, until a subsequent annual report is filed with that office.

The subject quit claim deed, dated December 9, 2000 was executed, acknowledged, and delivered to an agent of the grantees by Valley Honey L.L.C., by and through its registered president, Clark B. Stott, just over two weeks after the filing of the Annual Report by Valley Honey with the North Dakota Secretary of State.

N.D.C.C., § 47-10-05.1. Presumption of corporate authority of officers -- Application. An officer of any foreign or domestic corporation, or a manager of any foreign or domestic limited liability company, is presumed to have the power and authority to execute and acknowledge, in its behalf, any instrument granting, conveying, or otherwise affecting any interest in or lien upon any property of the corporation or limited liability company, including contracts, mortgages, deeds, plats, replats, easements, rights of way, options, dedications, restrictions, releases, and satisfactions. Any such instrument executed by an officer of the corporation, or limited liability company and otherwise proper, is valid and effective.

To issue of extraneous deeds

Attorney Coles also requested that the trial court somehow invalidate "a string of other quit claim deeds which were part of this action."

No citation, law, regulation, rule, or statute is given by attorney Coles which would supposedly grant the authority to a court to invalidate quit claim deeds granted by any party which has had an interest in real estate, yet, he and his client requested this very form of relief from the court.

In Hedges v. Dixon County, 150 U.S. 182, 14 S. Ct. 71, 37 L. Ed. 1044 (1983), the Supreme Court of the United States held:

"The established rule, although not of universal application, is that equity follows the law ¶ ¶ ¶ 'that, wherever the rights or the situation of parties are clearly defined and established by law, equity has no power to change or unsettle those rights or that situation, but in all such instances ¶ ¶ ¶ [that equity follows the law] is strictly applicable.'";

That this rule has been recognized and approved by the North Dakota Supreme Court in Wade v. Major, 162 N.W. 399 (N.D. 1917), where it said:

"A court of equity is not vested with arbitrary powers. It may not assume to decide the facts of a controversy according to its own standard of right, independently of fixed rules. On the contrary, a court of equity is governed in its judicial functions by doctrines and rules as fixed by those governing the actions of a court in a suit at law. If this were not so, every decision would be a virtual arbitration, and all certainty in legal rules, and security of legal rights would be lost.

Apparently, even attorney Coles realizes that the "extraneous deeds" are indeed an important series in the chain of title to the subject real estate, and ultimately fatal to the claims of any persons other than Rebecca Graves, and Larry Young as to ownership of the subject real estate.

To deed of December 9, 2000

The subject quitclaim deed, dated December 9, 2000 is in standard form and, insofar as is here material, provides that the grantor, Valley Honey L.L.C., by Clark B. Stott, Grantor or agent, in consideration for the sum of TEN DOLLARS (\$10.00) paid by the Second Party does hereby remise, release and forever quitclaim unto the Second Party

any right, title, interest and claim which the First Party has in and to the following described real property:

Here a reference to an Attachment "A" is pencilled in.

Description of Property

The Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 15, Township 140 North, Range 80 West of the 5th Principal Meridian, (10 acres more or less).

The Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) Less the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Fifteen (15), Township 140 North, Range 80 West of the 5th P.M. (30 acres more or less).

All in the County of Burleigh, State of North Dakota.

TO HAVE AND TO HOLD the above described property unto the Second Party, and the Second Party's executors, administrators, successors and assigns forever.

It is understood that this conveyance is made without covenants or warranties of any kind, either express or implied.

IN WITNESS WHEREOF, the First Party has signed and sealed this Quitclaim Deed on the day and year first above written.

(A copy of the certified original copy of the subject quit claim is attached hereto in the Addendum to this Brief at Pages Add-2-6, and the Appellants Appeal Appendix at Pages App-59-63).

Allegedly, an attempt was made to place conditions on the quitclaim deed grant by Clark B. Stott. Any condition would be in direct contravention of N.D.C.C., §§ 9-06-07; and 47-09-07, as held in Gajewski, supra.

The named Defendant, Larry Young pointed out his objection to, and understanding of attempting to attach amendments or conditions to a quitclaim deed at the alleged trial (Pages App-72-73) and the named Defendant, Rebecca Graves also expressed her objections and understanding of trying to place conditions on a quitclaim deed at the trial (Pages App-74-75).

Encoded law makes the execution, acknowledgement, and delivery of a quit claim deed to realty absolute, incapable of redelivery, not to be repudiated by the grantor, and beyond the power of a court to nullify or void.

It constitutes reversible error of the trial court to attempt to alter the intent of a quitclaim deed, and requires the vacating of any such finding.

To not finding joint and several liability

Also, attorney Coles somehow alleges a grievance against Rebecca Graves and Larry Young for attempting to utilize real property to which they held legal title to, and further alleges that his client should be somehow awarded monetary damages against Graves and Young for imagined damages caused by the alleged actions of Clark B. Stott, a Harold Knoefler, and a Ted Gubler, all unnamed parties to the proceeding. These allegations are malicious,

spurious, and venal, and in view of the law and facts, must be disregarded in their entirety.

Additionally, attorney Coles alleges a severe grievance against Rebecca Graves for paying the subject real estate taxes and penalties on the applicable real estate.

Interestingly, there is no submitted evidence that attorney Coles's client ever paid a cent of the real estate taxes on the subject real estate while it claimed possession of the real estate, and no allegations of what law or regulation was violated by Rebecca Graves paying taxes, and penalties, on real estate that she had an interest in. This allegation of a grievance against Rebecca Graves for paying real estate taxes is also malicious, spurious, and venal, and not worthy of consideration.

The trial court evidently realized this fact of the law, and this ruling is supported by the facts, and the application of the law.

To refusing to order costs for abstract

The North Dakota Supreme Court has previously held where plaintiffs are suing to quiet title to realty, they must rely upon the strength of their own title and not the weakness of the adversary, if they are to prevail.; Gajewski, supra. Valley Honey L.L.C., had no claim or position from which to start or prevail in the action.

Valley Honey L.L.C., commenced this instant action after all its right, title, interest, or lien to the subject realty had been quit claimed to the Defendants.

To any person who understands even a minutiae of real estate law, any review of the subject abstract to title would only enforce the claims of Graves and Young, and would serve no benefit for Valley Honey, other than to show that it had relinquished and surrendered all of its claim, interest and right to the subject real estate.

Evidently, even attorney Coles understood the significance of the subject quitclaim deeds, for he expressed his opinion in such a letter to Rodney Anderson, dated March 27, 2001 (Copy at Pages Add-7-12 of this Brief) and which he sent a copy of to Larry Young (Copy at Pages Add-13-14) wherein he enclosed a prepared quit claim deed, requesting that Young execute and acknowledge the deed (Pages App-15-16) concerning the subject real property.

The trial court was justified in denying the request for the costs of the abstract to the appellee.

Because the findings of fact of the trial court are without adequate evidentiary support, are premised on inadmissible testimony, are erroneous, and the conclusions of the law based thereon are unsound, inconsistent and contrary to the controlling principles

of law applicable to the facts, the proceeding must be remanded with instructions to vacate and set aside the judgment and writ of restitution entered into the proceeding.

Conclusion

The Appellant, and Cross-Appellee in this action, Larry Young, requests the proceeding be remanded and reversed with instructions that because the law states that a grant to a grantee is absolute and cannot be made conditionally, the subject quit claim deeds are absolute and all the rights, title, and interest of the grantors therein to the subject real property have been delivered to Rebecca Graves; and Larry Young; the judgment entered into the proceeding be vacated and set aside and be ordered discharged from the record; that a judgment be awarded to the Defendants for the repayment of money paid on the judgment, with twelve per cent annual interest until fully repaid; and for a judgment to be awarded to Larry Young to cover the costs, expenses, and fees incurred in the proceeding; and for any further relief necessary.

Dated this 24th day of January, 2003.

Submitted by: Larry Young
Larry Young, Appellant,
and Cross-Appellee,
c/o 246 700 South 12th Street,
Bismarck,
North Dakota 58504

-9-

STATE OF NORTH DAKOTA
in the Supreme Court

Supreme Court Case No. 20020254

Burleigh County Case No. 01-C-01894

Valley Honey Company, LL.,

Plaintiff/Appellee,
and Cross-Appellant,



**DOMESTIC AND FOREIGN
LIMITED LIABILITY COMPANY
ANNUAL REPORT**
SECRETARY OF STATE
SFN 50060 (9-00)

2000

FOR OFFICE USE ONLY

ID #	11,057,600
WO #	819860
Filed	11-27-00
By	<i>[Signature]</i>

RECEIVED
NOV 13 2000
SEC OF STATE

REPORT DUE NOVEMBER 15, 2000
The envelope containing the report must be postmarked on or before November 15, 2000 to be considered timely filed.
See instructions for EXTENSIONS

VALLEY HONEY COMPANY, L.L.C.
JAMES P RAUSCH
330 N 4TH ST
PO BOX 1413
BISMARCK ND 58502-1413

- 1. FILING FEES:**
\$ 50.00 if postmarked on or before November 15, 2000
UNLESS AN EXTENSION IS GRANTED:
\$100.00 if postmarked after November 15, 2000
- 2. State or Country of Origin**

ND

TYPE OR PRINT LEGIBLY

SEE REVERSE SIDE FOR FEES, FILING AND MAILING INSTRUCTIONS
For reference, see North Dakota Century Code, Section 10-32-149.

3. MANAGERS, GOVERNORS, OR MANAGING MEMBERS OF THE LIMITED LIABILITY COMPANY

MANAGERS	NAME	Check box if Manager also serves as Governor	COMPLETE MAILING ADDRESS				Zip+4
			Street/RR	PO Box	City	State	
PRESIDENT	<u>Clark B. Stett</u>	<input type="checkbox"/>	<u>49 Montana Hwy 135</u>	<u>P.O. Box 101</u>	<u>St. Regis, MT.</u>		<u>59866-461</u>
VICE PRESIDENT		<input type="checkbox"/>					
VICE PRESIDENT		<input type="checkbox"/>					
SEC/TREA	<u>Rodney F. Anderson</u>	<input type="checkbox"/>	<u>13001 12th ST N.E</u>		<u>Baldwin ND</u>		<u>58521-9756</u>
SECRETARY		<input type="checkbox"/>					
TREASURER		<input type="checkbox"/>					
GOVERNOR							
GOVERNOR							
MANAGING MEMBER	<u>Bruce W. Anderson</u>		<u>1669 So.</u>	<u>2750 W. Aberdeen,</u>	<u>ID</u>		<u>83210</u>

<p>4. Address of principal executive office (Street/RR, PO Box, City, State, Zip+4) if incorrect, cross out and correct as necessary. Address cannot only be a post office box.</p> <p>13001 12TH ST NE BALDWIN ND 58521-9756</p>	<p>5. Federal ID #</p> <p>91-1817787</p>
--	---

<p>6. Business activities actually engaged in in North Dakota</p> <p><u>Honey Packing</u></p>	<p>7. Telephone #</p> <p>701-223-8000 8524</p> <p>Daytime telephone #</p> <p><u>406 649 2257</u></p>
---	---

8. Name of person to contact about this report
Clark B Stett

9. "The undersigned has read the foregoing annual report, knows the contents, and believes the statements made to be true."

Clark B Stett / 11-10-00
Original signature Date

Add-1

C S.-R B

24 140 80 00 15 600
610



548462
Page: 1 of 4
12/11/2000 10:50A
Burleigh County

QUITCLAIM DEED

THIS QUITCLAIM DEED, is made on this 9th day of ~~November~~ ^{December}, 2000, by and between Valley Honey L.L.C., by Clark B. Stott, Grantor or agent, whose address is P.O. Box 101, Saint Regis, MT 59466, ("First Party") and Rebecca Graves, an undivided 1/2 interest, whose residence and/or mailing address is 1111 Park Drive, Apt. A., Grand Forks, North Dakota 58201; and Larry Young, an undivided 1/2 interest, whose residence and/or mailing address is RR 2 , P.O. Box 17, Baldwin, North Dakota 58521, ("Second Party").

WITNESSETH, That in consideration for the sum of TEN DOLLARS (\$10.00) paid by the Second Party, the First Party does hereby remise, release and forever quitclaim unto the Second Party any right, title, interest and claim which the First Party has in and to the following described real property:

* Attachment "A" is a part of this Quitclaim Deed. \$10.00

Description of Property

The Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW1/4NW1/4SW1/4) of Section 15, Township 140 North, Range 80 West of the 5th Principal Meridian, (10 acres more or less). 610

The Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) Less the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW1/4NW1/4SW1/4) of Section Fifteen (15), Township 140 North, Range 80 West of the 5th P.M. (30 acres more or less).

All in the County of Burleigh, State of North Dakota,
TO HAVE AND TO HOLD the above described property unto the Second Party, and the Second Party's executors, administrators, successors and assigns forever.

It is understood that this conveyance is made without covenants or warranties of any kind, either express or implied.

IN WITNESS WHEREOF, the First Party has signed and sealed this Quitclaim Deed on the day and year first above written.

Taxes and special assessments paid and
TRANSFER accepted this 11 day of
Dec 2000
Kevin Glatt
Burleigh County Auditor
By Kevin Glatt
Deputy, Burleigh County Auditor

WITNESS, The hand of the grantor:

Clark B. Stott
Clark B. Stott

Utah }
STATE OF MONTANA }
Utah } SS.
COUNTY OF MINERAL }

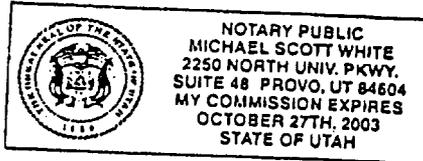
On this 9th day of ~~November~~ December, 2000, before me personally appeared Clark B. Stott, known to me to be the person who is described in, and who executed the within and forgoing instrument, and severally acknowledged that he executed the same.

My commission expires: Oct. 27th 2003

Michael E. White
Notary public

I hereby certify that the requirement for a report or statement of full consideration paid does not apply because this deed is for one of the transactions exempted by subdivision i of subsection 6 of section 11-18-02.2 N.D.C.C.

Signed: Clark B. Stott Dated December 11, 2000
Grantee, or Agent



548462
Page: 2 of 4
12/11/2000 10:56A
REBECCA GRAVES QCD 15.00 Burleigh County

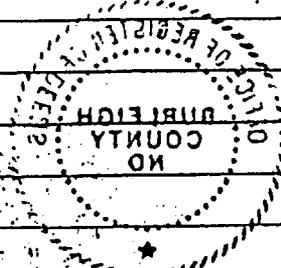
App-60 Add-3

9.80

* ATTACHMENT "A"

X to Hand

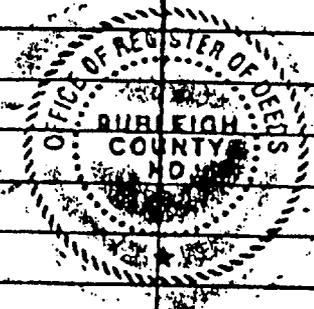
11/97	WCC	5,393.50	97-98	-17,280.16
2/98	A Krotter	2,000.00	98	
3/98	"	2,000.00	99	20,548.11
3/98	"	1,000.00	9000	30,352.62 19,334.44
3/98	"	430		57,162.71
4/99	D Lawrence Part	5,299.50		
4/00	Stein	1,773.90		
4/97	Pete	4,800.00		
4/97	Belnap	5,500		
01,659	6/97-9/00 3900 x 16 =	2,574		
	Manus	~4000	No i.	
023.75 x 15 =		60,356.25		
11.5 x 10		30,665.50		
4/97	Equipment	20,400		
4/97	Truck	7,000		
4/97	Boat	10,000		
		165,142.65		
	Tam	35,000	No i.	
3/99	Alta T/K Table	4,000		
7/00	Deck	3,268.34		
		207,450.99		
4/00	D. Lawrence 6 mos.	2,133.50		
	Annualized interest	23,026.97		
		232,611.46		
		175,448.75		



Rodney Anderson
 Figures found by Harold + Rod

10-6-00

548462
 Page: 3 of 4
 12/11/2008 10:50A
 18.00 Burleigh County



548462
Page: 4 of 4
12/11/2000 10:50A
18-00 Burleigh County

Rebecca Graves

OFFICE OF COUNTY REGISTER OF DEEDS
Burleigh County, ND
12/11/2000 10:50A
548462
Page: 4 of 4
18-00 Burleigh County

App-62

Add-5

OFFICE OF COUNTY RECORDER
COUNTY OF BURLEIGH

I hereby certify that I have carefully
examined the within instrument and
compared it with the original No.
548462 now on file in this
office and found it to be a true and
correct copy of the one now on file.

Date

8-23-02

[Signature]

County Recorder

By _____ Deputy

App-63

Add-6



JAMES J. COLES, J.D.

400 E. Broadway Suite #301
Post Office Box 2162
Bismarck, ND 58502
FAX: 701-222-8112
coleslaw@btigate.com
701-222-8131

March 27, 2001

Rod Anderson
Manager
Valley Honey Company, LLC
13001 12th Street NE
Baldwin, ND 58521

RE: Title Opinion

Dear Rod:

At your request we have made an office examination of the abstract relative to title of the premises situated in the County of Burleigh and State of North Dakota, described in the caption of the abstract as follows, to wit:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, Township 140 North, Range 80 West of the Fifth
Principal Meridian described herein as follows:

Ten Acre Tract

SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, Township 140 North, Range 80 West.

Thirty Acre Tract

NW $\frac{1}{4}$ SW $\frac{1}{4}$ less SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, Township 140 North, Range
80 West.

The abstract, consisting of 124 entries and 1 abstractor's certificates, was last continued and certified to by The North Dakota Guaranty and Title Co., to and as of February 6, 2001, at 7:59 a.m.

From such examination, we find and are of the opinion, subject to the **COMMENT** hereinafter made, that as reflected by the abstract on February 6, 2001, at 7:59 a.m., (the time at which the abstract was last continued) Rebecca Graves and Larry Young, the grantees named in the Quit Claim Deed at Entry No. 110 of the abstract as tenants-in-common, have record title of such premises, as the ostensible owners thereof, free and clear of all liens or encumbrances of record, except as follows:

Add-7

1. This title opinion refers to the surfaced interest only.
2. At Entry No. 56 of the abstract there appears the grant of a County Road Easement unto Burleigh County. Such Easement may have an impact upon the above-described premises.
3. At Entry No. 58 of the abstract there appears the grant of a Right of Way Easement to Northwestern Bell Telephone Co. Such Easement relates to the construction, operation, maintenance and enlargement of communication systems. Such Easement may have an impact upon the above-described premises.
4. At Entry No. 61 of the abstract there appears the grant of a Right of Way Easement to Northwestern Bell Telephone Co. Such Easement relates to the operation, maintenance, replacement and enlargement of communication systems. Such Easement may have an impact upon the above-described premises.
5. At Entry No. 88 of the abstract there appears a recorded Ordinance 94-10 relating to an ordinance for zoning by Burleigh County, North Dakota. Such zoning ordinance will have an impact upon the use of the above-described premises, according to its terms.
6. At Entry No. 101 of the abstract there appears a Mortgage dated July 14, 1998, and recorded November 4, 1999, as Document No. 534840 with the Burleigh County Register of Deeds. In such Mortgage Valley Honey Company, LLC, and Clark B. Stott appear as mortgagors and Questa Resources Inc., dba Questa Mortgage, a Montana corporation, appears as the mortgagee. Such Mortgage has been recorded and is an encumbrance upon the 10 acre tract only.
7. At Entry No. 102 of the abstract there appears an Assignment of Interest in Loan Document relating to the Mortgage shown at Entry No. 101 of the abstract. Such Assignment is dated July 14, 1998, and was recorded January 16, 2001, as Document No. 549538 with the Burleigh County Register of Deeds. Such Assignment of Mortgage does not create a direct or new encumbrance upon the above-described 10 acre tract, but does reflect the conveyance of authority for the release or assignment of such Mortgage to a third party.

8. At Entry No. 103 of the abstract there appears a Mortgage dated April 10, 2000, which was recorded April 20, 2000, as Document No. 540195. In such Mortgage Valley Honey, LLC, appears as the mortgagor and Advanced Technology Feasibility Group, LLC, appears as the mortgagee. Such Mortgage which contains a deficiency judgment clause and waiver of homestead clause is an encumbrance upon the entire above-described premises.
9. The abstract of title also reflects various federal tax liens and judgments which have been entered against the name of Harold Knoefler. Because this individual never had title of any of the above-described property in his name, such liens or judgments do not constitute encumbrances upon any of the described property.
10. The abstract of title also shows tax liens being entered against Ray Knoefler as shown at Entry No. 118, 119, 122, and 123. These liens were all recorded on or about April 27, 1993, and only relate to the 10 acre tract for the reason that Ray Knoefler only had title to such property and did not ever have title to the 30 acre tract. These tax liens were satisfied through the foreclosure proceedings reflected in the judgment foreclosing mechanic's lien as shown at Entry No. 84 of the abstract.
11. As reflected by the most recent abstractor's certificate, the real estate taxes for the year 2000 have not been paid.

COMMENT

Scope of Opinion: Unless otherwise stated, this opinion is written from an examination of the abstract only and the court files of any proceedings that may appear, such as foreclosure, quiet title actions, probate proceedings or tax sales, have not been examined.

Location of Buildings: Abstract does not show the location of buildings. If buildings or other improvements are involved, you must satisfy yourself by survey or other proper investigation that the same lie within the boundaries of the property described in the abstract.

Possession: You are charged with notice of the rights of persons in possession of the premises and of easements, encroachments and the like which, though not appearing of record, are capable of ascertainment by inspection or survey.

Zoning Ordinances and Covenants: Information as to zoning ordinances is outside the scope of this opinion but can be obtained from the building inspector of the city in which the property is located.

Mechanic's Liens: Such liens may be filed for record within 90 days after the improvement or construction upon the premises. Therefore, if there have been any recent improvements, there is a possibility that liens for such work may still be filed though they do not appear in the abstract. Please note that a 1989 amendment to the North Dakota Mechanic's Lien law allows mechanic's liens to be filed for architectural services, construction staking, engineering, land surveying, mapping or soil testing.

Taxes: In North Dakota, the general real estate taxes are not due until the first day of January following the year for which they are assessed and levied.

Special Assessments: Special assessments are not normally shown in abstracts until they have been extended in the tax lists by the county auditor. Consequently, it is possible for property to be subject to special assessments which do not appear in the abstract.

Lien for Weed Control Purposes: Section 63-01.1-08 of the NDCC provides for a lien against the property of a landowner who is responsible for infestation or fails or refuses to perform requirements for the control of weeds, and said lien need not be filed for record.

Waiver of Homestead Exemption: This examiner does not express an opinion whether any mortgage(s) listed in this opinion are in compliance with Section 47-18-05.1 of the NDCC which requires a waiver of homestead exemption by the mortgagor(s) on a mortgage on homestead property, except for a purchase money mortgage.

Mineral Estate: No opinion is expressed as to the status of the mineral estate or the rights of the owners or holders of mineral estates.

Non-Access Control Line: This examiner has not viewed the subject property and does not express an opinion whether any driveway allowing access from a public street to the subject property is in violation of a non-access control line which may be dedicated in a subdivision plat in which the lot or lots are located.

Veterans Administration Loan Guarantees: This examiner does not express an opinion whether the borrower and lender in any mortgage cited in the title opinion have complied with Section 35-03-01.3 of the NDCC which requires a statement to be signed by both parties at the time of the loan application when the loan is insured or guaranteed by the United States Veterans Administration.

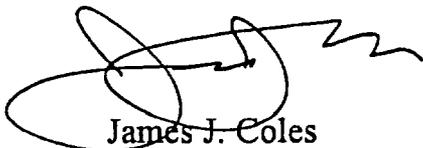
Environmental Concerns: This examiner does not express an opinion regarding the existence of any hazardous or toxic materials which may have been placed on the subject property or for other environmental concerns which may create a liability for the present or future owner of the property for the removal of such toxic materials or the abatement thereof. Any concerns regarding environmental matters should be addressed by an environmental audit or inspection of the subject property.

Environmental Laws and Hazardous Waste: The abstract does not reveal whether the property has been used in any manner that may have violated and would support a claim or cause of action under any federal, state or local environmental laws. You are required to satisfy yourself that such use has not occurred in the past and that there are no underground fuel storage facilities on the premises or other facilities which may have violated any applicable environmental laws. Notice should be taken that subsequent owners may be subject to action under said laws for prior owner's violations.

If you have any questions regarding this opinion, please feel free to call upon me.

Sincerely,

COLES LAW FIRM



James J. Coles
Attorney at Law

JJC/cs

INDEX, INVENTORIES OF THE FIRM (including all items)
Description of Collateral: Honey, Bees, Trees and Shrubs, Fruits, and Berries, All vehicles, machinery,
Equipment and Supplies.
Legal Description:
NW¼SW¼ Section 15, Township 140 North, Range 80 West, Burleigh County, North Dakota.
Products of collateral are covered. Also filed as File No. 00-000976748.

No. 110

Valley Honey, LLC, by Clark B. Stott
P.O. Box 101
St. Regis, MT 59466

QUIT CLAIM DEED

Dated Dec. 9, 2000
Filed Dec. 11, 2000, 10:50 AM
Recorded as Doc. No. 548462
Consideration \$10.00

Acknowledged Dec. 9, 2000, by Clark B. Stott,
before Michael Scott White, Notary Public, Utah
County, Utah (Seal)
Commn. expires Oct. 27, 2003

-to
Rebecca Graves, an undivided 1/2 interest
1111 Park Dr., Apt. A
Grand Forks, ND 58201
and
Larry Young, an undivided 1/2 interest
RR 2, P.O. Box 17

PRODUCT, MINERALS OF THE KIND (including oil and gas)
Description of Collateral: Honey, Bees, Trees and Shrubs, Fruits, and Berries, All vehicles, machinery,
Equipment and Supplies.

Legal Description:

NW¼SW¼ Section 15, Township 140 North, Range 80 West, Burleigh County, North Dakota.

Products of collateral are covered. Also filed as File No. 00-000976748.

No. 110

Valley Honey, LLC, by Clark B. Stott
P.O. Box 101
St. Regis, MT 59466

-to

Rebecca Graves, an undivided 1/2 interest
1111 Park Dr., Apt. A
Grand Forks, ND 58201

and
Larry Young, an undivided 1/2 interest
RR 2, P.O. Box 17
Baldwin, ND 58521

QUIT CLAIM DEED

Dated Dec. 9, 2000

Filed Dec. 11, 2000, 10:50 AM

Recorded as Doc. No. 548462

Consideration \$10.00

Acknowledged Dec. 9, 2000, by Clark B. Stott,
before Michael Scott White, Notary Public, Utah
County, Utah (Seal)

Commn. expires Oct. 27, 2003

Remises, releases and forever quitclaims unto the Second Party any right, title, interest and claim which the
First Party has in and to the following described real property:

SW¼NW¼SW¼ Section 15, Township 140 North, Range 80 West of the 5th Principal Meridian,
Burleigh County, North Dakota

NW¼SW¼, less the SW¼NW¼SW¼ of Section 15, Township 140 North, Range 80 West of the
5th Principal Meridian, Burleigh County, North Dakota

Note: See instrument of record for attachment.

The North Dakota Guaranty and Title Co.
Legal Abstractor of Title in Burleigh County, Bismarck, N. D.

Add - 12

|||||



JAMES J. COLES, J.D.

400 E. Broadway Suite #301
Post Office Box 2162
Bismarck, ND 58502
FAX: 701-222-8112
coleslaw@btigate.com
701-222-8131

March 27, 2001

Larry Young
RR 2, P.O. Box 17
Baldwin, ND 58521

Dear Mr. Young:

I represent Valley Honey Company, LLC, aka Valley Honey, LLC ("Valley Honey"). At the present time Valley Honey has requested that I assist them in clearing title to a tract of property located in Burleigh County, North Dakota. For the most part, the title problems that have been created with that real property have been related to what would appear to be ongoing disputes with the prior owner, Harold Knoefler.

In that regard, I have enclosed a copy of my title opinion regarding that real estate and a copy of the abstract of title relating to the quit claim deed that was apparently delivered to you or to someone else on your behalf from Valley Honey, LLC. I am not sure if you are aware of the circumstances regarding the issuance of this deed or its recording. However, it is the position of my client that such deed was obtained under fraudulent circumstances, that it was delivered out of trust or escrow without permission and that it was further executed by someone who did not have authority to execute the deed on behalf of the limited liability company.

It is my hope that title to the property can be cleared into the name of my client as quickly as possible without the need for a quiet title action. Therefore I would request that you execute a quit claim deed in regard to this property so that this issue can be settled as quickly as possible.

With that in mind, I have enclosed a quit claim deed for your signature before a notary public which would convey any interest you might have on the property back to my client without the need for a quiet title action. You should be aware that if a quiet title action is necessary we will include a claim against all of the defendants involved for slander of title because of the circumstances surrounding the execution and recording of the deed. In that case damages will be requested. In this regard you will want to bear in mind that my client is in process of seeking financing for this property in order to forestall a pending foreclosure and an

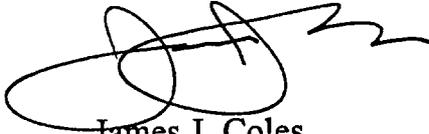
Add-13

Page 2
March 27, 2001

element of damages would include a loss of financing if it should result in the loss of the property through the foreclosure proceedings. If you plan on signing this quit claim deed, we would like to have it returned within 15 days.

Sincerely,

COLES LAW FIRM



James J. Coles
Attorney at Law

JJC/cs

Enclosures

Add - 14

I certify that the requirement for a report of statement of full consideration paid does not apply because this deed is exempted pursuant to §11-18-02.2(6)(i), NDCC.

Signed: _____ Date: _____
Grantee or Agent

03270120.302.wpd

STATE OF NORTH DAKOTA

in the Supreme Court

Supreme Court Case No. 20020254

Burleigh County Case No. 01-C-01894

Valley Honey Company, LLC.

Plaintiff/Appellee,
and Cross-Appellant,

vs.

Rebecca Graves,

Defendant,

vs.

Larry Young,

Defendant/Appellant,
and Cross-Appellee.

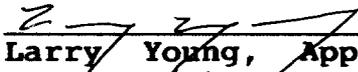
Certificate of Service

The Undersigned does here certify that on the 27th day of January, 2003, that the following document(s) were filed or served;

Eight: Reply Brief of Appellant and Cross-Appellee on; Penny Miller, Clerk, Supreme Court of North Dakota, 600 East Boulevard Avenue, Bismarck, North Dakota 58505 also, one copy of the same upon,

Maury C. Thompson, P.O. Box 1771, Bismarck, ND 58502
James J. Coles, P.O. Box 2162, Bismarck, ND 58502

In person, or by placing the said document(s) in addressed and stamped envelope(s) and depositing the same in the United States Mail at Bismarck, North Dakota 58501

Certified by: 
Larry Young, Appellant, and
Cross-Appellee