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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,)	
)	CV-13-00769-TUC- DCB
Plaintiff,)	
)	ORDER OF FORECLOSURE AND
v.)	JUDICIAL SALE
)	
THERESE A. PERROW; STATE OF)	
ARIZONA DEPARTMENT OF REVENUE;)	
TRUST COMPANY OF AMERICA; and)	
BRANCH BANKING AND TRUST)	
COMPANY,)	
)	
Defendants.)	
_____)	

On February 4, 2015, the Court entered an Order accepting and adopting the Report and Recommendation of Magistrate Judge Velasco to grant the United States’ Motion for Summary Judgment and other relief. (Docket No. 38). The Order entitled the United States “to foreclose its valid federal tax liens on the Subject Property, commonly known as 14120 N. Skyhawk Drive, Tucson, Arizona 85755.” (Docket No. 38 at 2:1-3). Consistent with that Order, the United States’ motion, the entire record in this case, and for good cause shown, this Motion (Doc. 40) and Order of Foreclosure and Judicial Sale is GRANTED and entered pursuant to the provisions of 28 U.S.C. §§ 2001 and 2002 and 26 U.S.C. §§ 7402 and 7403. The Court hereby ORDERS AS FOLLOWS:

1 1. Therese A. Perrow is indebted to the United States of America (“United
2 States”) for unpaid assessed balances of federal income taxes (Form 1040) for the periods
3 ending December 31, 1995, and December 31, 2000 through December 31, 2006, plus
4 interest and statutory additions accruing after the dates of assessments pursuant to 28
5 U.S.C. § 1961(c) and 26 U.S.C. § 6621 until paid. On February 4, 2015, the Court
6 entered judgment in favor of the United States and against Therese A. Perrow for her
7 federal income tax liabilities for the periods ending December 31, 1995, and December
8 31, 2000 through December 31, 2006, plus interest and other statutory additions pursuant
9 to 28 U.S.C. § 1961(c) and 26 U.S.C. § 6621 from April 8, 2013.

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11 2. The property sought to be foreclosed by this action consists of one parcel of
12 real property located at 14120 N. Skyhawk Drive, Tucson, Arizona 85755 (the “subject
13 property”). The subject property is legally described as:

14 The Northwest quarter of the Southeast quarter of the Northeast quarter of
15 Section 22, Township 11 South, Range 13 East, Gila and Salt River Base
 and Meridian, Pima County, Arizona.

16 EXCEPT all coal and other minerals as reserved in the Patent from the
17 United States of America.

18 3. The United States has valid and subsisting tax liens on all property and
19 rights to property of Therese A. Perrow, including the subject property, arising from the
20 assessments described in paragraph 18 of the Complaint, which tax liens are effective as
21 of the dates of those assessments. The United States further protected its liens by filing
22 various Notices of Federal Tax Lien with the Recorder for Pima County, Arizona.
23

1 4. Section 7403 of Title 26 (U.S.C.) entitles the United States to enforce its
2 liens against the subject property in order to apply the proceeds towards the tax liabilities
3 of Therese A. Perrow.

4 5. The United States' federal tax liens against the subject property are hereby
5 foreclosed. The United States Marshal for the District of Arizona, his/her representative,
6 or an Internal Revenue Service Property Appraisal and Liquidation Specialist ("PALS")
7 representative is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for
8 public sale and to sell the subject property, free and clear of the right, title and interest of
9 all parties to this action and any successors in interest or transferees of those parties. The
10 United States may choose either the United States Marshal or a PALS representative to
11 carry out the sales under this Order of Foreclosure and Judicial Sale and shall make the
12 arrangements for any sales as set forth in this Order. This Order of Foreclosure and
13 Judicial Sale shall act as a special writ of execution and no further orders or process from
14 the Court shall be required.

15 6. The United States Marshal for the District of Arizona, his/her
16 representative, or a PALS representative is authorized to have free access to the subject
17 property and to take all actions necessary to preserve that property including, without
18 limitation, retaining a locksmith or other person to change or install locks or other
19 security devices on any part thereof, until a deed thereto is delivered to the ultimate
20 purchaser(s).

21 7. The terms and conditions of the sale are as follows:
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1 a. Except as otherwise stated herein, the sale of the subject property
2 shall be by public auction to the highest bidder, free and clear of all liens and interests.

3 b. The sale shall be subject to all laws, ordinances, and governmental
4 regulations (including building and zoning ordinances), affecting the premises, and
5 easements and restrictions of record, if any.

6 c. The sale shall be held at the United States District Court for the
7 District of Arizona in Tucson, on the subject property's premises, or at any other place in
8 accordance with the provisions of 28 U.S.C. §§ 2001 and 2002, at a date and time
9 announced by the United States Marshal, his/her representative, or a PALS
10 representative.
11

12 d. Notice of the sale shall be published once a week for at least four
13 consecutive weeks before the date fixed for the sale in at least one newspaper regularly
14 issued and of general circulation in Pima County, and, at the discretion of the Marshal,
15 his/her representative, or a PALS representative, by any other notice that it or its
16 representative may deem appropriate. State or local law notice requirements for
17 foreclosures or execution sales do not apply to these sales under federal law and State or
18 local law regarding redemption rights do not apply to these sales. The notice of sale shall
19 describe the subject property and shall contain the material terms and conditions of sale
20 in this Order of Foreclosure and Judicial Sale.

21 e. The minimum bid will be set by the Internal Revenue Service. If the
22 minimum bid is not met or exceeded, the Marshal, his or her representative, or a PALS
23 representative may, without further permission of this Court, and under the terms and

1 conditions in this Order of Foreclosure and Judicial Sale, hold new public sales, if
2 necessary, and reduce the minimum bid or sell to the highest bidder.

3 f. Bidders shall be required to DEPOSIT at the time of sale with the
4 Marshal, his/her representative, or a PALS representative, a minimum of ten percent of
5 the bid with the deposit to be made by a certified or cashier's check payable to the United
6 States District Court for the District of Arizona. Before being permitted to bid at the sale,
7 bidders shall display to the Marshal, his/her representative, or a PALS representative
8 satisfactory proof of compliance with this requirement.

9
10 g. The balance of the purchase price of the subject property in excess
11 of the deposit tendered shall be paid to the Marshal or a PALS representative (whichever
12 person is conducting the sale) within thirty (30) days after the date the bid is accepted by
13 a certified or cashier's check payable to the United States District Court for the District of
14 Arizona. If the successful bidder or bidders fails to fulfill this requirement, the deposit
15 shall be forfeited and shall be applied to cover the expenses of the sale, including
16 commissions due under 28 U.S.C. § 1921(c), with any amount remaining to be applied to
17 the federal tax liabilities of Therese A. Perrow at issue herein. The subject property shall
18 be again offered for sale under the terms and conditions of this Order of Foreclosure and
19 Judicial Sale or, in the alternative, sold to the second highest bidder or bidders. The
20 United States may bid as a credit against its judgment without tender of cash.

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22 h. The sale of the subject property shall not be final until confirmed by
23 this Court. The Marshal or a PALS representative shall file a report of sale with the
Court within 30 days from the date of receipt of the balance of the purchase price.

1 i. Upon confirmation of the sale, the Marshal or PALS representative
2 shall promptly execute and deliver a deed of judicial sale conveying the subject property
3 to the purchaser or purchasers. It is the purchaser's responsibility for recording the deed
4 of judicial sale in the appropriate location.

5 j. Upon confirmation of the sale, the interests of, liens against, or
6 claims to the subject property held or asserted by the United States in the Complaint and
7 any other parties to this action or any successors in interest or transferees of those parties
8 shall be discharged and extinguished. The sale is ordered pursuant to 28 U.S.C. § 2001.
9 Redemption rights under state or local law shall not apply to this sale under federal law.
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11 k. Upon confirmation of the sale, the purchaser or purchasers shall
12 have the recorder of deeds, in the Pima County Recorder's Office, to cause transfer of the
13 subject property to be reflected upon that Recorder Office's register of title.

14 8. Until the subject property is sold, Therese A. Perrow shall take all
15 reasonable steps necessary to preserve the subject property (including all buildings,
16 improvements, fixtures and appurtenances thereon) including, without limitation,
17 maintaining fire and casualty insurance policies on the subject property. She shall not
18 commit waste against the subject property, nor shall she cause or permit anyone else to
19 do so. She shall not do anything that tends to reduce the value or marketability of the
20 subject property, nor shall she cause or permit anyone else to do so. She shall not record
21 any instruments, publish any notice, or take any other action that may directly or
22 indirectly tend to adversely affect the value of the subject property or that may tend to
23 deter or discourage potential bidders from participating in the public sale, nor shall she

1 cause or permit anyone else to do so. Violation of this paragraph shall be deemed a
2 contempt of court and punishable as such.

3 9. All persons occupying the subject property shall leave and vacate
4 permanently such property no later than 30 days after the stay of this Order as set forth in
5 paragraph 15, below, expires, each taking with them his or her personal property (but
6 leaving all improvements, buildings, fixtures, and appurtenances) when leaving and
7 vacating. If any person fails or refuses to leave and vacate the subject property by the
8 time specified in this Order, the United States Marshal's Office is authorized to take
9 whatever action it deems appropriate to remove such person or persons from the
10 premises, whether or not the sale of such property is being conducted by a PALS
11 representative. If any person fails or refuses to remove his or her personal property from
12 the subject property by the time specified herein, the personal property remaining at the
13 subject property thereafter is deemed forfeited and abandoned, and the United States
14 Marshal's Office or the PALS representative is authorized and directed to remove and
15 dispose of it in any manner they see fit, including sale, in which case the proceeds of sale
16 are to be applied first to the expenses of sale, and then to the tax liabilities at issue herein.
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18 10. Notwithstanding the terms of the immediately preceding paragraph, if, after
19 the sale of the subject property is confirmed by this Court, the subject property remains
20 occupied, a writ of assistance may, without further notice, be issued by the Clerk of Court
21 pursuant to Rule 70 of the Federal Rules of Civil Procedure to compel delivery of
22 possession of the subject property to the purchasers thereof.
23

1 11. Therese A. Perrow shall file a forwarding address with the Court within 35
2 days after this Order is filed, and serve a copy of the same upon the United States and all
3 other parties to this litigation. If Therese A. Perrow, and any other persons occupying the
4 subject property, vacate the subject property prior to the deadline set forth in paragraph
5 12, above, such person(s) shall notify counsel for the United States no later than 2
6 business days prior to vacating the property of the date on which he or she is vacating the
7 property. Notification shall be made by leaving a message for said counsel, Amy
8 Matchison, at (202) 307-6422.
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10 12. The Marshal, his or her representative, or a PALS representative, shall
11 deposit the amount paid by the purchaser or purchasers into the registry of the court.
12 Upon appropriate motion for disbursement or stipulation of the parties, the court will
13 disburse the funds first to the IRS, for allowed costs and expenses of sale, including any
14 commissions due under 28 U.S.C. § 1921(c) and including an amount sufficient to cover
15 the costs of any steps taken to secure or maintain the subject property pending sale and
16 confirmation by the Court. Distribution of the remaining proceeds should be determined
17 either through a stipulation between the remaining parties and approved by the Court or
18 by order of the Court after submission of briefs by the remaining parties setting forth
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1 their arguments as to how the remaining proceeds should be distributed.

2 Dated this 19th day of February, 2015.

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David C. Bury
United States District Judge