

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No: 3:15-cv-00071-RCY
)	
v.)	
)	AGREED ORDER RESOLVING THE
MARY B. POLLARD;)	COMPLAINT
FLORENCE D. POLLARD-ALVESTEFFER;)	
SYLVESTER W. POLLARD;)	
MARCUS PITTS;)	
ESSEX COUNTY;)	
COUNTY OF ESSEX CIRCUIT COURT,)	
)	
Defendants.)	
)	

Upon consideration of the United States’ Unopposed Motion for Entry of an Agreed Order Resolving the Complaint, and upon the consent of the non-defaulting defendants Mary B. Pollard, County of Essex, Virginia, and County of Essex Circuit Court, and good cause appearing, it is hereby:

ORDERED and ADJUDGED that judgment is hereby entered in favor of the United States and against defendants Mary B. Pollard, County of Essex, and County of Essex Circuit Court as to the relief in Count I; it is further

ORDERED that the federal tax liens arising pursuant to 26 U.S.C. §§ 6321 and 6322 from the dates of assessment against the late George W. Pollard described in paragraphs 19 to 22 of the Complaint are ordered foreclosed against the real property subject to foreclosure (“the Subject Property”) located at 2593 Latanes Mill Rd., Tappahannock, VA 22560 and legally described as follows:

All that certain lot or parcel of land lying in Central Magisterial District of Essex County, Virginia, on the left side of the public

road leading from Beulah Church to Dunbrooke (State Route 622), consisting of two-thirds (2/3) of an acre, more or less, but conveyed in gross and not by the acre, more fully described as follows: Beginning at a point on the centerline of said public road opposite a 16 inch oak, corner to the land of Thomas Pollard, Jr.; thence northwestward through said oak and along the Thomas Pollard, Jr. line approximately 44 yards to a 16 inch poplar corner to Thomas Pollard and Thomas Pollard, Jr., thence northeastward approximately 72 yards along the Thomas Pollard line to a beech at a stream, corner to the land of Thomas Pollard, thence southeastward along the Thomas Pollard line approximately 60 yards to an 8 inch oak near said public road, thence along the same course to the centerline of said public road, thence southwestward approximately 53 yards along said centerline to a point opposite a 16 inch oak, the place of beginning, being a part of the land conveyed unto the said Thomas Pollard by deed from Roland G. Brooks and wife, bearing date on the 24th day of November, 1943, of record in Deed Book 85, page 89, in the Clerk's Office of the Circuit Court of said County.

It is further

ORDERED that the Subject Property be sold pursuant to 28 U.S.C. §§ 2001 and 2002, to satisfy the federal tax liens on the Subject Property as follows:

1. The Internal Revenue Service ("IRS"), by and through one or more of its duly authorized Property Appraisal and Liquidation Specialists ("PALS"), is authorized to offer for public sale and to sell the Subject Property.
2. The terms and conditions of the sale are as follows:
 - a. The sale of the Subject Property shall be free and clear of the interests of all parties in the suit.
 - b. The sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Subject Property, and easements and restrictions of record, if any.
 - c. The sale shall be held either at the courthouse of the county or city in which the Subject Property is located or on the Subject Property's premises.

d. The PALS shall announce the date and time for sale.

e. Notice of the sale shall be published once a week for at least four consecutive weeks before the sale in at least one newspaper regularly issued and of general circulation, and, at the discretion of the PALS, by any other notice that the PALS deems appropriate. The notice shall contain a description of the Subject Property and shall contain the terms and conditions of sale in this order of sale.

f. The PALS shall set the minimum bid. If the minimum bid is not met or exceeded, the PALS may, without further permission of this Court, and under the terms and conditions in this order of sale, hold a new public sale and, if PALS finds it necessary, reduce the minimum bid.

g. At the time of the sale, the successful bidder(s) shall deposit with the PALS, by money order or by certified or cashier's check payable to the Clerk of the United States District Court for the Eastern District of Virginia, a deposit in an amount between five (5) and twenty (20) percent of the minimum bid as specified by the PALS in the published Notice of Sale. Before being permitted to bid at the sale, potential bidders shall display to the PALS proof that they are able to comply with this requirement. No bids will be accepted from any person(s) who have not presented proof that, if they are the successful bidders(s), they can make the deposit required by this order of sale.

h. The successful bidder(s) shall pay the balance of the purchase price for the Subject Property within sixty (60) days following the date of the sale by certified or cashier's check payable to the United States District Court for the Eastern District of Virginia, and shall be given to PALS who will deposit the funds with the Clerk of the Court. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and shall be applied to cover the expenses

of the sale, with any amount remaining to be applied to the federal tax liens on the Subject Property at issue herein. The Clerk of the Court shall distribute such forfeited deposit as directed by the PALS by check made payable to the "United States Treasury." The Subject Property shall be again offered for sale under the terms and conditions of this order of sale or, in the alternative, sold to the second highest bidder.

i. The Clerk of the Court is directed to accept the proceeds of the sale and deposit them into the Court's registry for distribution pursuant to further Order of this Court.

j. The sale of the Subject Property shall be subject to confirmation by this Court. On confirmation of the sale, the Internal Revenue Service shall execute and deliver its deed conveying the Subject Property to the purchaser(s). On confirmation of the sale, all interests in, liens against, or claims to the Subject Property that are held or asserted by all parties to this action are discharged and extinguished.

k. When this Court confirms the sale, the Recording Official of the County of Essex shall cause the transfer of the Subject Property to be reflected upon that jurisdiction's register of title. The successful bidder(s) at the sale shall pay, in addition to the amount of the bid, any documentary stamps and registry fees as provided by law.

l. The sale of the Subject Property is ordered pursuant to 28 U.S.C. § 2001, and is made without right of redemption.

3. Until the Subject Property is sold, defendant Mary B. Pollard shall take all reasonable steps necessary to preserve the Subject Property (including all buildings, improvements, fixtures and appurtenances on the Subject Property) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the Subject Property. Defendant Mary B. Pollard shall not commit waste against the Subject Property or

cause or permit anyone else to do so. Defendant Mary B. Pollard shall not do anything that tends to reduce the value or marketability of the Subject Property or cause or permit anyone else to do so. Defendant Mary B. Pollard shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements, posting signs, or making internet postings) that may directly or indirectly tend to adversely affect the value of the Subject Property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall they cause or permit anyone else to do so.

4. All persons occupying the Subject Property, including but not limited to Defendant Mary B. Pollard, shall vacate it permanently within 60 days of the date of this Order, each taking his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Subject Property). If any person fails or refuses to vacate the Subject Property by the date specified in this Order, the PALS are authorized to coordinate with the United States Marshal to take all actions that are reasonably necessary to have those persons ejected. Any personal property remaining on the Subject Property 30 days after the date of this Order is deemed forfeited and abandoned, and the PALS are authorized to dispose of it in any manner they see fit, including sale, in which case the proceeds of the sale are to be applied first to the expenses of sale and the balance to be paid into the Court for further distribution. Checks for the purchase of the personal property shall be made out to the Clerk of the Court for the Eastern District of Virginia, and the Clerk is directed to accept these checks and deposit them into the Court's registry for distribution pursuant to further Order of this Court.

5. Pending the sale of the Subject Property and until the deed to the Subject Property is delivered to the successful bidder, the PALS is authorized to have free access to the premises in order to take any and all actions necessary to preserve the Subject Property, including, but not

limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the Subject Property.

6. The United States has valid and subsisting tax liens on the Subject Property in the amount of \$355,998.93 calculated through March 24, 2014, plus penalties, interest, and statutory additions accruing after March 24, 2014, according to law. *See* DE 1 at ¶¶ 19-22.

7. After the Court confirms the sale, the sale proceeds deposited with the Clerk of this Court should be applied to the following items, in the order specified:

a. First, to the United States Treasury for the expenses of the sale, including any expenses incurred to secure or maintain the Subject Property pending sale and confirmation by the Court.

b. Second, if any proceeds remain, to the defendant County of Essex for any real property taxes and other local assessments due and owing at the time, an amount previously stipulated to (*see* DE 15 at ¶ 6) as equal to the \$681.75 owed as of March 31, 2015, plus any interest or statutory additions that accrued by law after March 24, 2014, less credits or payments, if any, made after March 31, 2015;

c. Third, if any proceeds remain, to the United States in payment of the outstanding federal tax liabilities of the late George W. Pollard described in paragraphs 19 through 22 of the complaint;

d. Fourth, if any proceeds remain, to the heirs of the late George W. Pollard as may be determined if and when required by subsequent order of the Court.

LET THE CLERK send a copy of this AGREED ORDER RESOLVING COMPLAINT by ECF notice to all counsel of record registered to receive it, and by United States mail, first-class postage prepaid to the defendant Mary B. Pollard, who is *pro se*.

IT IS SO ORDERED.

DATE: _____
Richmond, Virginia

RODERICK C. YOUNG
United States Magistrate Judge

WE ASK FOR THIS:

DANA J. BOENTE
United States Attorney

SEEN AND AGREED:

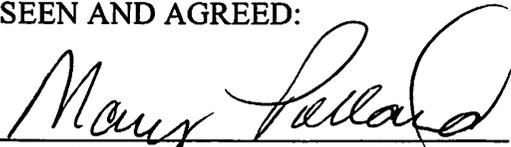
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Defendant appearing pro se

IT IS SO ORDERED.

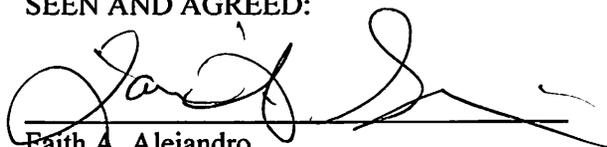
DATE: _____
Richmond, Virginia

RODERICK C. YOUNG
United States Magistrate Judge

WE ASK FOR THIS:

DANA J. BOENTE
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Defendant appearing pro se

IT IS SO ORDERED.

DATE: 9/29/2015
Richmond, Virginia

ts/ [Signature]
Roderick C. Young
United States Magistrate Judge

WE ASK FOR THIS:

DANA J. BOENTE
United States Attorney

[Signature]

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