

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
v.	)	Case No. 4:12-CV-1395 AGF
	)	
GERALD PETERS, et al.	)	
	)	
Defendants.	)	

**AMENDED ORDER OF SALE**

On June 11, 2014, this Court entered a memorandum opinion and order granting the United States’ motion for summary judgment. (Dkt. No. 90.) Also on June 11, 2014, this Court entered a final judgment in favor of the United States of America and against the defendants Gerald Peters and Darlene Peters for unpaid income tax liabilities in the amount of \$323,723.70, plus statutory additions accruing from December 31, 2013, according to law. (Dkt No. 91.) Additionally, the judgment stated that the federal tax liens associated with the Peters’ unpaid tax liabilities is enforced with a judicial sale of the property now known as and numbered 17659 Ailanthus Drive, Chesterfield, Missouri (“Property”), and more fully described as follows:

Lot 287 of Wildhorse Village F Record plat, as per plat thereof  
recorded in Plat Book 300, Page 32 of the St. Louis County Records.

On July 24, 2014, the Court entered its Order of Sale directing that the property shall be sold under 26 U.S.C. § 7403(c) and 28 U.S.C. §§ 2001 and 2002 in order to collect the unpaid federal tax liabilities. This amended Order of Sale is entered only to correct clerical errors found in the Order of Sale, ¶¶ 11 and 12, which mistakenly identified the U.S. District Court of Minnesota instead of this Court. Accordingly, this Court ORDERS as follows:

1. The Internal Revenue Service Property Appraisal and Liquidation Specialists (“the PALS”) are authorized to offer for sale at public auction and sell the Property pursuant to 28 U.S.C. §§ 2001 and 2002.

2. The sale of the Property shall be by public auction to the highest bidder, free and clear of the federal tax liens, and free and clear of all liens, claims, and interests of all the parties to this action, including any successors or transferees of such parties.

3. The sale shall be subject to building lines (if established), all laws, ordinances, governmental regulations (including building and zoning residences) affecting the Property, and easements and restrictions of record, if any.

4. The Property shall be offered for sale “as is,” with all faults and without any warranties express or implied, and the sale shall be made without any right of redemption.

5. The public auction sale shall be held at a place in St. Louis County, Missouri, either on the premises of the Property or at any other place in the county in accordance with the provisions of 28 U.S.C. §§ 2001 and 2002.

6. The PALS shall announce the date and time for the public auction sale.

7. Notice of the sale shall be published once a week for at least four consecutive weeks before the time fixed for the sale in at least one newspaper regularly issued and of general circulation in St. Louis County, Missouri, and by any other notice that the PALS in their discretion may deem appropriate. The notice of sale shall contain a description of the Property, and shall contain the terms and conditions of sale in this order.

8. The PALS shall set a minimum bid for the sale of the Property no lower than \$200,000.

9. The PALS, IRS, and their representatives, are permitted to enter the Property with prospective buyers in order to allow prospective buyers to inspect the interior and exterior of the Property at such times as the PALS shall determine are reasonable and convenient.

10. As stated, the Property shall be sold to the highest bidder, with the United States (through the PALS) having the right to withdraw the Property from bidding at any time prior to the acceptance of a bid if the bids are below the minimum bid.

11. At the time of the public auction sale, the successful bidder(s) shall deposit with the PALS, by money order or by certified or cashier's check, and amount of at least five percent of the minimum bid as specified in the published Notice of Sale. The money order or certified or bank check shall be made payable to and deposited with the Clerk of the U.S. District Court for the Eastern District of Missouri. Before being permitted to bid at the sale, bidders shall display to the PALS proof that they are able to comply with this requirement. No bids will be received from any person who has not presented proof that, if he/she/it is the successful bidder, he/she/it can make the deposit required by this order.

12. The successful bidder(s) shall pay the balance of the purchase price to the PALS for the Property within 60 days following the date of the sale. Payment shall be by a certified or cashier's check or money order and made payable to the Clerk of the U.S. District Court for the Eastern District of Missouri. The payment shall be given to the PALS who shall deposit it with the Clerk of this Court. If the bidder fails to fulfill this requirement, the deposit shall be forfeited as damages and shall be applied to cover the expenses of the sale, with any amount remaining to be applied to Gerald Peters' and Darlene Peters' federal tax liabilities. In the event that the bidder fails to pay the balance of the purchase price as stated, the Clerk of the Court shall distribute the deposit as directed by the PALS by check made payable to the "United States

Treasury,” and the Property shall be again offered for sale under the terms and conditions of this order, or, alternatively, sold to the second highest bidder if the second bid meets at least the minimum bid set forth in paragraph 8 above.

13. The Clerk of the Court is directed to accept the deposit and proceeds of sale and deposit them into the Court’s registry for distribution pursuant to this order and any further order of this Court.

14. The sale of the Property shall be subject to confirmation by the Court. No later than 60 days after receipt of the balance of the purchase price, the United States shall file a report of sale with the Court, together with a proposed order of confirmation of sale.

15. After confirmation of the sale, the PALS or the Internal Revenue Service shall execute and deliver a deed of judicial sale conveying the Property to the purchaser. On confirmation of the sale, all interests in, liens against, or claims to the Property that are held or asserted by the United States and any of the other parties to this action are discharged and extinguished.

16. After this Court confirms the sale of the Property, and on receipt of the deed from the successful bidder, the Recording Official of St. Louis County, Missouri shall record the deed in favor of the successful bidder. The successful bidder at the sale shall pay, in addition to the amount of the bid, any documentary stamps and registry and/or filing fees as required by law.

17. To preserve the Property and place it in a proper condition for sale, the PALS are authorized to take possession and custody of the Property, have free access to the premises, and to take all action necessary to preserve the Property between the date of this order and date of confirmation of sale by the Court, 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 Property.

18. Up until the date the Court confirms the sale of the Property, Gerald Peters and Darlene Peters shall take all reasonable steps necessary to preserve the Property (including all buildings, improvements, fixtures, and appurtenances on the Property) in its current condition including, without limitation, obtaining or maintaining fire and casualty insurance on the realty at their own expense until the Property is sold. Neither Gerald Peters or Darlene Peters shall do anything to reduce the value or marketability of the Property. They shall neither commit waste against that Property, nor cause or permit anyone else to do so. If the Property is destroyed before its sale and any of the defendants are entitled to insurance proceeds, the insurance proceeds shall be paid into the registry of this Court. Violation of this paragraph shall be a contempt of court and punishable as such.

19. All persons occupying the Property shall permanently leave and vacate the premises within 30 days of the date of this Order of Sale, each taking with them their personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Property). If Gerald Peters and Darlene Peters or any other person occupying the Property fails to vacate, the PALS, in coordination and with the assistance of the U.S. Marshals Service of the Eastern District of Missouri, are hereby authorized to take whatever action that it deems appropriate to remove Gerald Peters and Darlene Peters or any other person from the premises. The U.S. Marshals Service is authorized to and directed to take any and all necessary actions, including the use of reasonable force, to enter and remain on the premises, which includes, but is not limited to, the land, the buildings, vehicles, and any structures located thereon, for the purpose of executing this Order. The United States Marshals Service is further authorized and directed to arrest and/or evict from the premises any and all persons who obstruct, attempt to obstruct, or interfere or attempt to interfere, in any way with the execution of this Order.

20. Any personal property remaining on the Property 30 days after the date of this Order of Sale is deemed forfeited and abandoned, and the PALS are authorized to dispose of such personal property in any manner it deems appropriate, including but not limited to the sale of such personal property. The proceeds of the sale of any personal property shall be applied first to the expenses of sale, and then remitted to the Court for further distribution. Money orders and checks for the purchase of the personal property shall be made payable to the “Clerk of the U.S. District Court for the Eastern District of Missouri,” and the Clerk is directed to accept such checks and deposit them into the Court’s registry for distribution pursuant to further order of the Court. This Order of Sale shall also serve as a writ of assistance or writ of possession, as appropriate, and no further order from the Court shall be required for these purposes.

21. After the Court confirms the sale of the Property, all the sale proceeds deposited with the Clerk of this Court shall be distributed in the following order:

- a. First, to PALS, and payable to the “United States Treasury,” for the costs and expenses of the sale, including any costs and expenses incurred to secure or maintain the Property pending sale and confirmation by the Court;
- b. Second, to St. Louis County, or other local taxing authority, for real property taxes and other local assessments due and owing which are entitled to priority under 26 U.S.C. § 6323(b)(6);
- c. Third, to Defendant JPMorgan Chase Bank, N.A., in the amount of the outstanding principal, interest to the date of distribution, and reasonable expenses pursuant to 26 U.S.C. § 6323(e), that are due and owing at the time of the sale; and
- d. Fourth, the remaining proceeds are to be distributed to the United States (by check, made payable to the “United States Department of Justice” and sent to the Tax Division, at P.O.

Box 7238, Washington, D.C. 20044, to the attention of the Financial Litigation Unit (“FLU”)) and applied to the unpaid federal tax liabilities that comprise the judgment referred to above, plus any statutory additions that have accrued thereon.

d. Any further remaining sale proceeds shall be held in the Court’s registry pending further order of the Court.

IT IS SO ORDERED this 15<sup>th</sup> day of February, 2015.

  
HON. AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Prepared By:

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Dated: February 19, 2015