

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 3:15-cv-00083-WMC
)	
v.)	
)	
JAMES T. RUNYON,)	
FIRST MERIT BANK,)	
ASSOCIATED BANK,)	
RIVER VALLEY BANK,)	
MARJORIE YOUNG, and)	
LINCOLN COUNTY TREASURER'S)	
OFFICE,)	
)	
Defendants.)	
_____)	

ORDER OF SALE

This Court entered a final judgment in this action on September 17, 2015, (Docket No. 29) in the amount of \$827,360.72, plus interest, in favor of the plaintiff, United States of America, and against the defendant, James T. Runyon. The judgment provides that federal tax liens be enforced by a judicial sale of Runyon's property, along with all improvements, buildings, and appurtenances thereon. This property includes:

The real property at N12011 Deer Lake Road, Tomahawk, Wisconsin 54487, which is more particularly described as:

Lot One (1) of Renshaw's Replat, being a part of Government Lot One (1), Section One (1), Township Thirty-five (35) North, Range Six (6) East, Lincoln County, Wisconsin.

Formerly described as follows:

Lot One (1) in the Plat of Pinewood in the Northwest Quarter of the Northwest Quarter (NW¹/₄ NW¹/₄) (Government Lot One (1)), in Section One (1), in Township Thirty-five (35) North, of Range Six (6) East.

AND

That part of the Northwest Quarter of the Northwest Quarter (NW¹/₄ NW¹/₄) (Government Lot One (1)), in Section (1), in Township Thirty-five (35) North, of Range Six (6) East, described as follows:

Bounded on the North by the South line of Lot No. One (1) of Herman Lamer's Recorded Plat of "Pinewood"; on the East by the West Line of Pine Drive (a 50 foot wide Town Road); on the South by the North Line of Property described in a Deed recorded in Volume 196, page 639, Lincoln County Registry; and on the West by a 30 foot strip of land measured from the maximum highwater mark on Deer Lake and owned by the Wisconsin Valley Improvement Company.

EXCEPTING any and all easements and/or rights-of-way.

FURTHER EXCEPTING any and all matters relating to flood and/or flowage rights.

(hereinafter, the "Residential Tomahawk Property"); and the real property at 1414 N. 4th Street, Tomahawk, Wisconsin 54487, which is more particularly described as:

The North 75 feet of the following described parcel: Parcel One (1) of Certified Survey Map No. 97, as recorded in Volume 1 of Certified Surveys, page 109, as document No. 236062, being a part of the Southeast Quarter of the Northwest Quarter (SE¹/₄ NW¹/₄) of Section Twenty-Seven (27), Township Thirty-five (35) North, Range Six (6) East, EXCEPT that parcel recorded in Volume 372 of Records, Page 724, as Document No. 264843, City of Tomahawk, Lincoln County, Wisconsin.

(hereinafter, the "Office Tomahawk Property").

The Court now ORDERS that the Residential Tomahawk Property and the Office Tomahawk Property each shall be sold under 26 U.S.C. § 7403(c) and 28 U.S.C. §§ 2001 and 2002 in order to collect the federal tax liabilities as follows:

1. The Internal Revenue Service ("IRS") Property Appraisal and Liquidation Specialists ("PALS") is authorized to offer for public sale and to sell the Residential Tomahawk Property and the Office Tomahawk Property.

2. The terms and conditions of the sale of the Residential Tomahawk Property are as follows:

- a. The sale of the Residential Tomahawk Property shall be by public auction to the highest bidder, free and clear of all rights, titles, claims, liens, and interests of all parties to this action, including the plaintiff United States and the defendants James T. Runyon, Associated Bank, Marjorie Young, and Lincoln County Treasurer's Office, and any predecessors or successors in interest or transferees of those parties.
- b. The sale shall be subject to building liens, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Residential Tomahawk Property, and easements, restrictions, and reservations of record, if any.
- c. The sale of the Residential Tomahawk Property shall be held either at the courthouse of the county or city in which the Residential Tomahawk Property is located or on the Residential Tomahawk Property.
- d. PALS shall announce the date and time for sale.
- e. The IRS PALS and their representatives shall be permitted to enter the Residential Tomahawk Property with prospective buyers in order to allow prospective buyers to inspect the interior and exterior of the Residential Tomahawk Property at such times as the IRS PALS shall determine are reasonable and convenient.
- f. Notice of the sale of the Residential Tomahawk Property 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 in Lincoln County, Wisconsin and, at the discretion of the PALS, by any other notice or advertisement that the PALS deems appropriate. The notice of the sale shall contain a description of the Residential Tomahawk Property and shall contain the material terms and conditions of sale set forth in this order of sale.

- g. The Residential Tomahawk Property shall be offered for sale “as is,” with all faults and without any warranties either express or implied, and the sale shall be made without any right of redemption.
- h. The PALS shall set, and may adjust, 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, if necessary, and adjust the minimum bid.
- i. At the time of the sale, the successful bidder(s) shall deposit with the PALS, by cash or by money order, certified check, or cashier’s check drawn payable to the Clerk of the United States District Court for the Western District of Wisconsin, twenty (20) percent of the minimum bid as specified by the PALS in the published notice of sale. The money order or certified or cashier’s check shall be deposited with the Clerk of this Court. 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.

- j. The successful bidder(s) shall pay the balance of the purchase price for the Residential Tomahawk Property within sixty (60) days following the date of the sale. The cash or money order, certified check, or cashier's check shall be payable to the Clerk of the United States District Court for the Western District of Wisconsin and shall be given to PALS who will deposit the funds with the Clerk of this Court. If the bidder fails to fulfill this requirement, the sale shall be treated as null and void, and the deposit shall be forfeited as damages and applied to cover the expenses of the sale, with any amount remaining to be applied to the costs of sale and then to the secured parties on the property in order of priority. The Clerk shall distribute the deposit as directed by the PALS by check drawn payable to the "United States Treasury." The Residential Tomahawk 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. The successful bidder(s) at the new sale or second highest bidder, as the case may be, shall receive the Residential Tomahawk Property free and clear of all rights, titles, claims, liens, and interests of the defaulting bidder(s).
- k. The Clerk of the Court is directed to accept the deposits and proceeds of the sale and deposit them into the Court's registry for distribution as provided for herein or pursuant to further order of this Court.

1. The sale of the Residential Tomahawk Property shall be subject to confirmation by this Court. On confirmation of the sale, ownership and possession of the Residential Tomahawk Property shall transfer to the successful bidder(s), and all interests in, liens against, and titles and claims to, the Residential Tomahawk Property that are held or asserted by the parties to this action (and their predecessors and successors) are discharged and extinguished.

m. After the confirmation of the sale, the IRS shall execute and deliver a deed under the authority of this Court conveying the Residential Tomahawk Property, effective as of the date of the confirmation of the sale, to the successful bidder(s). When this Court confirms the sale, the Recording Official of Lincoln County shall cause the transfer of the Residential Tomahawk Property to be reflected upon that county's register of title. The successful bidder(s) shall pay, in addition to the amount of the bid, any documentary stamps and registry fees as provided by law.

3. The terms and conditions of the sale of the Office Tomahawk Property are as follows:

a. The sale of the Office Tomahawk Property shall be by public auction to the highest bidder, free and clear of all rights, titles, claims, liens, and interests of all parties to this action, including the plaintiff United States and the defendants James T. Runyon, First Merit Bank, River Valley Bank, Marjorie Young, and Lincoln County Treasurer's Office, and any predecessors or successors in interest or transferees of those parties.

- b. The sale shall be subject to building liens, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Office Tomahawk Property, and easements, restrictions, and reservations of record, if any.
- c. The sale of the Office Tomahawk Property shall be held either at the courthouse of the county or city in which the Office Tomahawk Property is located or on the Office Tomahawk Property.
- d. PALS shall announce the date and time for sale.
- e. The IRS PALS and their representatives shall be permitted to enter the Office Tomahawk Property with prospective buyers in order to allow prospective buyers to inspect the interior and exterior of the Office Tomahawk Property at such times as the IRS PALS shall determine are reasonable and convenient.
- f. Notice of the sale of the Office Tomahawk Property 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 in Lincoln County, Wisconsin and, at the discretion of the PALS, by any other notice or advertisement that the PALS deems appropriate. The notice of the sale shall contain a description of the Office Tomahawk Property and shall contain the material terms and conditions of sale set forth in this order of sale.

- g. The Office Tomahawk Property shall be offered for sale “as is,” with all faults and without any warranties either express or implied, and the sale shall be made without any right of redemption.
- h. The PALS shall set, and may adjust, 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, if necessary, and adjust the minimum bid.
- i. At the time of the sale, the successful bidder(s) shall deposit with the PALS, by cash or by money order, certified check, or cashier’s check drawn payable to the Clerk of the United States District Court for the Western District of Wisconsin, twenty (20) percent of the minimum bid as specified by the PALS in the published notice of sale. The money order or certified or cashier’s check shall be deposited with the Clerk of this Court. 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.
- j. The successful bidder(s) shall pay the balance of the purchase price for the Office Tomahawk Property within sixty (60) days following the date of the sale. The cash or money order, certified check, or cashier’s check shall be payable to the Clerk of the United States District Court for the Western District of Wisconsin and shall be given to PALS who will deposit the

funds with the Clerk of this Court. If the bidder fails to fulfill this requirement, the sale shall be treated as null and void, and the deposit shall be forfeited as damages and applied to cover the expenses of the sale, with any amount remaining to be applied to the judgment for the federal tax liabilities entered in this case. The Clerk shall distribute the deposit as directed by the PALS by check drawn payable to the "United States Treasury." The Office Tomahawk 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. The successful bidder(s) at the new sale or second highest bidder, as the case may be, shall receive the Office Tomahawk Property free and clear of all rights, titles, claims, liens, and interests of the defaulting bidder(s).

- k. The Clerk of the Court is directed to accept the deposits and proceeds of the sale and deposit them into the Court's registry for distribution as provided for herein or pursuant to further order of this Court.
- l. The sale of the Office Tomahawk Property shall be subject to confirmation by this Court. On confirmation of the sale, ownership and possession of the Office Tomahawk Property shall transfer to the successful bidder(s), and all interests in, liens against, and titles and claims to, the Office Tomahawk Property that are held or asserted by the parties to this action (and their predecessors and successors) are discharged and extinguished.

m. After the confirmation of the sale, the IRS shall execute and deliver a deed under the authority of this Court conveying the Office Tomahawk Property, effective as of the date of the confirmation of the sale, to the successful bidder(s). When this Court confirms the sale, the Recording Official of Lincoln County shall cause the transfer of the Office Tomahawk Property to be reflected upon that county's register of title. The successful bidder(s) shall pay, in addition to the amount of the bid, any documentary stamps and registry fees as provided by law.

4. Up until the date that this Court confirms the sales of the Residential Tomahawk Property and the Office Tomahawk Property (hereinafter "Tomahawk Properties"), James T. Runyon shall take all reasonable steps necessary to preserve the Tomahawk Properties (including all buildings, improvements, fixtures and appurtenances on the Tomahawk Properties) in their current conditions including, without limitation, maintaining fire and casualty insurance policies on the Tomahawk Properties, and James T. Runyon, and all occupants of the Tomahawk Properties, shall neither commit waste against the Tomahawk Properties nor cause or permit anyone else to do so. All Defendants shall neither do anything that tends to reduce the value or marketability of the Tomahawk Properties nor cause or permit anyone else to do so. All Defendants 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 Tomahawk Properties or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall he cause or permit anyone else to do so. If any of the Tomahawk Properties is

destroyed before its sale and James T. Runyon is entitled to insurance proceeds, the insurance proceeds shall be paid into the registry of this Court. Violation of this paragraph shall be deemed a contempt of court and punishable as such.

5. James T. Runyon and any other persons occupying the Tomahawk Properties shall vacate the Tomahawk Properties permanently ninety (90) days after the date of this order, each taking his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Tomahawk Properties). If any person fails or refuses to vacate the Tomahawk Properties by the date specified in this order of sale, PALS is authorized to coordinate with the United States Marshal to take all actions that are reasonably necessary to have those persons ejected. 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. Any personal property remaining on the Tomahawk Properties ninety (90) days after the date of this order is deemed forfeited and abandoned, and PALS is authorized to dispose of it in any manner it sees fit, including sale, in which case the proceeds of the sale are to be applied first to the costs and expenses of sale and the balance shall be paid into the Court for further distribution. Money orders and checks for the purchase of the personal property shall be drawn payable to the Clerk of the United States District Court for the Western District of Wisconsin and the Clerk of the Court is

directed to accept cash and checks and deposit such items into the Court's registry for distribution pursuant to further order of this 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.

6. No later than two business days after vacating the Tomahawk Properties pursuant to the deadline set forth in paragraph 5, above, James T. Runyon shall notify counsel for the United States of a forwarding address where he can be reached.

7. Up until the date that this Court confirms the sale of the Tomahawk Properties, the IRS, PALS, and their representatives are authorized to have free and full access to the Tomahawk Properties in order to take any and all actions necessary to preserve the Tomahawk Properties, 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 Tomahawk Properties.

8. After the Court confirms the sale of the Residential Tomahawk Property, the sale proceeds deposited with the Clerk of this Court should be applied to the following items, in the order specified below:

- 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 Residential Tomahawk Property pending sale and confirmation by the Court;
- b. Second to Lincoln 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);

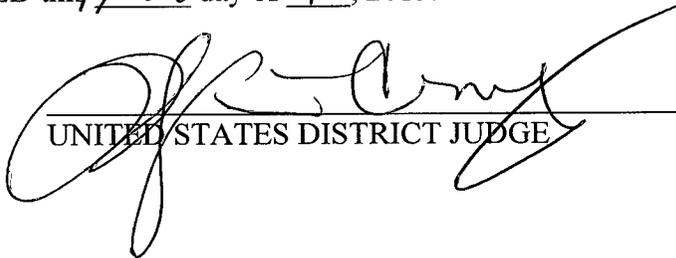
- c. Third, to Associated Bank, in the amount owed on the mortgage recorded September 3, 1999;
- d. Fourth, to the United States, in the remaining balance owed for federal income and employment taxes as recorded in the notice of federal tax lien filed July 10, 2006;
- e. Fifth, to Marjorie Young, in the amount owed on the mortgages recorded January 24, 2010, May 3, 2013, and January 9, 2014;
- f. Sixth, to the United States for federal income and employment taxes as recorded in the notice of federal tax liens filed March 21, 2011, July 16, 2012, June 24, 2013, November 4, 2013, December 12, 2013, and December 16, 2013.
- g. Any further remaining sale proceeds shall be held in the Court's registry pending further order of the Court.

9. After the Court confirms the sale of the Office Tomahawk Property, the sale proceeds deposited with the Clerk of this Court should be applied to the following items, in the order specified below:

- 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 Office Tomahawk Property pending sale and confirmation by the Court;
- b. Second to Lincoln 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 First Merit Bank, in the amount owed on the mortgage recorded July 20, 1999;
- d. Fourth, to River Valley Bank, in the amount owed on the mortgage recorded March 22, 2002;
- e. Fifth, to the United States, in the remaining balance owed for federal income and employment taxes as recorded in the notice of federal tax lien filed July 10, 2006;
- f. Sixth, to Marjorie Young, in the amount owed on the mortgages recorded January 24, 2010, May 3, 2013, and January 9, 2014;
- g. Seventh, to the United States for federal income and employment taxes as recorded in the notice of federal tax liens filed March 21, 2011, July 16, 2012, June 23, 2014, November 4, 2013, December 12, 2013, and December 16, 2013.
- h. Any further remaining sale proceeds shall be held in the Court's registry pending further order of the Court.

IT IS SO ORDERED this 7th day of September, 2015.


UNITED STATES DISTRICT JUDGE

Agreed and Consented to:

Date: July __, 2015

JOHN W. VAUDREUIL United States Attorney	James T. Runyon RUNYON LAW OFFICES, LLC P.O. Box 519 Tomahawk, WI 54487 Phone: (715)453-5387
CAROLINE D. CIRAULO Acting Assistant Attorney General	

<p><u>/s/ Joshua Y. Levine</u> JOSHUA Y. LEVINE Trial Attorney, Tax Division U.S. Department of Justice P.O. Box 7238 Washington, D.C. 20044 202-307-6451 (v) 202-514-6770 (f) Joshua.Y.Levine@usdoj.gov</p> <p><i>Attorney for United States of America</i></p>	<p>Fax: (715)453-5355 Email: jtrunyon@runyonlawoffices.com</p> <p><i>Defendant and Attorney for James T. Runyon and Marjorie Young</i></p>
<p>Kevin E. Wolf Ruder Ware, L.L.S.C. 500 North First Street, Suite 8000 P.O. Box 8050 Wausau, WI 54402-8050 Phone: 715.845.4336 Fax: 715.845.2718 kwolf@ruderware.com</p> <p><i>Attorney for River Valley Bank</i></p>	<p>Christopher G. Sitzmann Sitzmann Law Firm Ltd. 231 W. Franklin Street Appleton, WI 54911 office: (920) 733-3963 fax: (920) 733-8873 csitzmann@sitzmannlaw.com</p> <p><i>Attorney for First Merit Bank</i></p>
<p>John A. Cravens Mallery & Zimmerman, S.C. 500 Third Street Suite 800 P.O. Box 479 Wausau, WI 54402-0479 Phone: 715.845.8234 Fax: 715.845.1805 jcravens@mzattys.com</p> <p><i>Attorney for Associated Bank, N.A.</i></p>	