

UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	4:13CV3095
)	
RANDALL NELSON,)	
DEBORAH NELSON,)	
WASHINGTON COUNTY TREASURER,)	
TWO RIVERS STATE BANK,)	
EASTON INVESTMENTS, LLC, and)	
EMPIRE INVESTMENTS 2, LLC,)	
)	
Defendants.)	

**FINAL JUDGMENT ON COUNT III OF THE FIRST AMENDED COMPLAINT
AND ON THE SUPPLEMENTAL COMPLAINT AND ORDER OF SALE**

Upon consideration of the United States’ unopposed motion (Filing No. 74) and the stipulation between the non-defaulted parties (Filing No. 74-1), the Court hereby ENTERS FINAL JUDGMENT ON COUNT III OF THE FIRST AMENDED COMPLAINT and FINAL JUDGMENT ON THE SUPPLEMENTAL COMPLAINT in favor of the United States and against defendants Washington County, Two Rivers State Bank, Easton Investments, LLC, and Empire Investments 2, LLC, as set forth below.

1. On February 20, 2014, the Court entered judgment on Count III of the First Amended Complaint against defendants Randall Nelson and Deborah Nelson, declaring that that “[t]he United States has valid and subsisting tax liens that attached to all property and rights to property held by Randall Nelson and Deborah Nelson, including the property located at 4383 County Road 21 in Kennard, Nebraska that is legally described as:

Tax Lot 12 in Section 14, Township 17 North, Range 10 East of the 6th P.M., Washington County, Nebraska (‘Property’)[.]” (Filing No. 61 ¶ 3(a).)

2. In its judgment against defendants Randall Nelson and Deborah Nelson, the Court also directed that the Property be sold subject to further order. (*Id.* ¶ 3(b).)

3. Based on the Court-approved stipulation between the United States and the remaining defendants to Count III of the First Amended Complaint and the Supplemental Complaint, the federal tax liens described above in paragraph 1 attached to and are enforced against the Property, and the Property shall be sold.

4. The terms and conditions of the sale of the Property are set forth below.

- (a) The IRS Property Appraisal and Liquidation Specialists (“PALS”) are authorized to offer for sale at public auction and sell the Property pursuant to 26 U.S.C. § 7403 and 28 U.S.C. §§ 2001 and 2002.
- (b) The public auction sale of the Property shall be made without right of redemption, and be sold “as is.”
- (c) 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.
- (d) The Property shall be sold free and clear of the federal tax liens, and free and clear of all liens and claims of all the parties to this action.
- (e) The sale shall be held at a place in Washington County, Nebraska, 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.
- (f) The PALS shall announce the date and time for the sale.
- (g) 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 Washington County, Nebraska, 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.

- (h) The Property shall be sold free and clear of any municipal or county tax liens.
- (i) The PALS shall set a minimum bid for the sale of the Property. If the minimum bid is not met or not exceeded, the PALS may, without further permission of the Court and under the terms and conditions of this order, hold a new public sale and, if necessary, adjust the minimum bid.
- (j) 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 inadequate in its opinion. The Property shall be sold free and clear of all liens and claims.
- (k) 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, an amount of at least five percent of the minimum bid as specified in the published Notice of Sale. The money order or check shall be made payable to and deposited with the Clerk of the U.S. District Court for the District of Nebraska. 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.

- (l) The successful bidder(s) shall pay the balance of the purchase price to the PALS for the Property within 60 days after the date the bid is accepted. Payment shall be by a certified or cashier's check payable to the Clerk of the U.S. District Court for the District of Nebraska. The check given to the PALS shall be deposited with the Clerk of this 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 Randall Nelsons' and/or Deborah Nelsons' 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 4(i) above.
- (m) The Clerk of this Court is directed to accept the proceeds of the sale and deposit it into the Court's registry for distribution pursuant to this order and any further order of this Court. (*See* paragraph 5 below.)
- (n) The sale of the Property shall be subject to confirmation by the Court. No later than 30 days after receipt of the balance of the purchase price, the PALS shall file a report of sale with the Court, together with a proposed order of confirmation of sale and proposed deed.
- (o) On confirmation of the sale, the PALS or the IRS 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.

- (p) When this Court confirms the sale of the Property, the Clerk of Washington County, Nebraska, 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 Clerk's registry and/or filing fees as required by law.
- (q) Between the date of this order of sale and the date that the Court confirms any sale of the Property, 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, including retaining a locksmith to change or install locks, and placing the Property in proper condition for sale.
- (r) Up until the date that this Court confirms the sale of the Property, Randall Nelson and Deborah Nelson 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. Randall Nelson and Deborah Nelson, and any other occupants of the Property, shall not 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. Randall Nelson and Deborah Nelson shall continue to pay the local real estate taxes and other

municipal charges assessed against the Property until the Property is sold. If the Property is destroyed before its sale and Randall Nelson and/or Deborah Nelson is entitled to insurance proceeds, the insurance proceeds shall be paid into the registry of this Court.

- (s) Within 30 days from the date of this order of sale, Randall Nelson and Deborah Nelson and all other persons (if any) occupying the Property shall permanently leave and vacate the premises, taking with them their personal property (but leaving all improvements, buildings, fixtures and appurtenances to the property). If Randall Nelson and Deborah Nelson 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 District of Nebraska, are hereby authorized to take whatever action that it deems appropriate to remove Randall Nelson and Deborah Nelson or any other person from the premises. This includes that 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.
- (t) Any personal property remaining on the Property 30 days after the entry 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.

Checks for the purchase of the personal property shall be made payable to the Clerk of the U.S. District Court for the District of Nebraska, 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.

5. 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 the United States for expenses it incurs in selling the Property;
- (b) *Second*, to Easton Investments, LLC, in the amount of only \$3,340.54 (plus \$1.02 per day for every day after April 9, 2014);
- (c) *Third*, to Empire Investment 2, LLC, in the amount of only \$1,362.24 (plus \$0.51 per day for every day after April 22, 2014);
- (d) *Fourth*, to Washington County, Nebraska, in the amount of only \$2,428.44 (plus \$0.47 per day for every day after May 1, 2014, and \$0.93 for every day after September 1, 2014);
- (e) *Fifth*, to Two Rivers State Bank, in the amount of only \$25,000;
- (f) *Sixth*, all remaining proceeds to the United States in the amount up to \$628,067.64 (plus interest that has and will accrue according to law from January 14, 2014);

(g) *Seventh*, if there are still any remaining proceeds from the sale after distributions have been made in accordance with paragraphs 5(a) through 5(f), the remaining proceeds shall be held in the Court's registry pending further order from the Court.

6. In order to carry out the terms of paragraph 5 above, the United States shall apply to the Court for a distribution order requiring the Clerk of the Court to make payments in accordance with the terms of paragraph 5 above.

7. The parties shall each bear their own costs and expenses incurred in this litigation, including any possible attorney fees.

Dated: May 2, 2014.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court