

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 15-cv-2618-DDC-JPO
)	
MARCOS BOWMAN, et al.,)	
)	
Defendants.)	
_____)	

ORDER OF SALE

On February 10, 2016, the Court entered judgment in this action enforcing the plaintiff’s federal tax liens and authorizing the subject property, described below, be sold. (Doc. 44).

Accordingly, it is ORDERED that the real property located at 15285 West 164th Terrace, Olathe, Kansas 66062, (the “Property”) and legally described as:

Lot 32, FAIRFIELD AT HERITAGE PARK, 1st PLAT, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof

be sold under 26 U.S.C. § 7403(c) and 28 U.S.C. §§ 2001 and 2002 to satisfy the federal tax liens, as follows:

1. The Internal Revenue Service Property Appraisal and Liquidation Specialists (“PALS”) is authorized to offer for public sale and to sell the Property.
2. The sale of the Property shall be by public auction to the highest bidder, free and clear of the interests of all parties in this suit, including the United States; Marcos Bowman a/k/a Francisco Alcantar-Valenzuela; Susan M. Felitz, Trustee under Declaration of Trust dated May 16, 2008; Ford Motor Credit, Inc.; Cash Partners LP d/b/a Ace Cash; and Johnson County Treasurer; and any successors in interest or transferees of those parties.

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

4. The sale shall be held either at the courthouse of the county or city in which the Property is located or on the Property's premises.

5. PALS shall announce the date and time for sale. The IRS, PALS, and their representatives shall be 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 IRS or PALS shall determine are reasonable and convenient.

6. 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 in Johnson County, Kansas, and, at the discretion of PALS, by any other notice that PALS deems appropriate. The notice shall contain a description of the property and shall contain the terms and conditions of sale in this order of sale.

7. The 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.

8. PALS shall set the minimum bid, and the Property shall be sold to the highest bidder. If the minimum bid is not met or exceeded, 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.

9. At the time of the sale, the successful bidder(s) shall deposit with PALS, by money order or by certified or cashier's check payable to the Clerk of the United States District Court for the District of Kansas, a deposit in an amount between five and twenty percent of the minimum bid as specified by PALS in the published Notice of Sale. Before being permitted to

bid at the sale, potential bidders shall display to 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, they can make the deposit required by this order of sale.

10. The successful bidder(s) shall pay the balance of the purchase price for the Property within 60 days following the date of the sale. The certified or cashier's check payable to the United States District Court for the District of Kansas 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 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 income tax liabilities of Marcos Bowman associated with the federal tax liens at issue herein. The Clerk shall distribute the deposit as directed by PALS by check made to the "United States Treasury." The 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.

11. The Clerk of the District Court shall accept the proceeds of the sale and deposit it into the Court's registry for distribution pursuant to further order of this Court.

12. The sale of the Property shall be subject to confirmation by this Court. On confirmation of the sale, the IRS shall execute and deliver a deed 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 all parties to this action are discharged and extinguished.

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

14. All persons occupying the Property shall vacate the Property within 30 days of this Order of Sale, each taking his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Property). If any person fails or refuses to vacate the Property, PALS, in coordination and with the assistance of the United States Marshals Service, is authorized to take whatever action that it deems reasonably necessary to have those persons ejected. The U.S. Marshals Service is authorized and directed to take any and all necessary actions, including the use of reasonable force, to enter and remain on the premises, for the purpose of executing this Order. The U.S. 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.

15. Until the Property is vacated, Susan M. Felitz shall take all reasonable steps necessary to preserve the Property (including all buildings, improvements, fixtures and appurtenances on the property) in its current condition. At no time shall she commit waste against the Property or cause or permit anyone else to do so. She shall neither do anything that tends to reduce the value or marketability of the Property, including taking any action that may tend to deter or discourage potential bidders, nor cause or permit anyone else to do so. Violation of this paragraph shall be deemed a contempt of court and punishable as such.

16. After the Property is vacated, Susan M. Felitz shall not be responsible for costs or expenses associated with the Property.

17. Any personal property remaining on the Property 30 days after the date of this Order of Sale (or a later date if agreed to by PALS) 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 expenses of sale and the balance to be paid into the Court for further distribution. Checks or money orders for the purchase of the personal property shall be

made out to the Clerk of the Court for the District of Kansas 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. 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.

18. Pending the sale of the Property and until the deed to the Property is delivered to the successful bidder, PALS is authorized to have free access to the premises in order to take any and all actions necessary to preserve the 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 Property.

19. After the Court confirms the sale, the gross sale proceeds deposited with the Clerk of this Court shall be applied first to Johnson County Treasurer to pay the unpaid real property taxes and accrued interest that encumber the Property. The remaining sale proceeds shall be divided between the United States and Susan M. Felitz, with the United States receiving eighty percent (80%) of the sale proceeds and Susan M. Felitz receiving twenty percent (20%) of the sales proceeds. Any sales expenses incurred by PALS shall be paid from the portion allocated to the United States.

Dated: February 10, 2016.

s/ Daniel D. Crabtree
DANIEL D. CRABTREE
United States District Judge

Agreed:

For the plaintiff, United States:

CAROLINE D. CIRAOLO
Acting Assistant Attorney General

/s/ Martin M. Shoemaker

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For defendant Johnson County Treasurer (Board of County Commissioners of Johnson County, Kansas):

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For defendant Susan M. Felitz, Trustee under Declaration of Trust date May 16, 2008:

/s/ Susan M. Felitz

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