

The Honorable Benjamin H. Settle

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JASON L. KREGER, as Co-Representative of
the Estate of Dennis W. Kreger, Sr., deceased;
ELLA MAE JACKSON-KREGER, as Co-
Representative of the Estate of Dennis W.
Kreger, Sr., deceased; JO ANN V. EYRISH;
CHRIS S. GILGORE; LAURA L. GILGORE;
PACIFIC COUNTY

Defendants.

Case No. 3:19-cv-05682-BHS

**ORDER OF FORECLOSURE AND
JUDICIAL SALE**

This Order of Foreclosure and Judicial Sale is entered pursuant to the provisions of 28 U.S.C. §§ 2001 & 2002 and 26 U.S.C. §§7402 & 7403. The Court hereby ORDERS as follows:

1. This Order pertains to two parcels of real property located in Pacific County, Washington (“Subject Properties”), commonly referred to as 16215 Sandridge Road, Long

1 Beach, WA 98631 (“Property I”) and 17805 Sandridge Road, Long Beach, WA 98631
2 (“Property II”), and is more-particularly described in the United States’ Complaint (Dkt. No. 1,
3 at ¶ 15, 26).

4 2. The United States has valid and subsisting tax liens on all property and rights to
5 property of Dennis W. Kreger, Sr., deceased (*See* Judgment in *United States v. Jason L. Kreger,*
6 *et al.*, Case No. 3:14-cv-06020-RJB (W.D. Wash.), Dkt. Nos. 15, 17), including the Subject
7 Properties. The United States protected its interests by filing Notices of Federal Tax Liens and
8 Abstract of Judgment with the Pacific County Auditor’s Office.

9 3. Dennis W. Kreger, Sr. is the sole owner of Property I.

10 4. Dennis W. Kreger, Sr. is a 50% owner of Property II. Chris S. Gilgore and Laura
11 L. Gilgore own the remaining 50% of Property II. *See* Dkt. No. 21.

12 5. Jason L. Kreger has no interest in the Subject Properties.

13 6. 26 U.S.C. §7403 entitles the United States to enforce its liens against the Subject
14 Properties in order to apply the proceeds towards the tax liabilities of Dennis W. Kreger, Sr.

15 7. 28 U.S.C. § 3201(a) creates a judgment lien in favor of the United States on all
16 property and interest in property of Dennis W. Kreger Sr.’s Estate, as of that date of the
17 recording of abstract of judgment.

18 8. The United States’ federal tax liens and judgment lien against the Subject
19 Properties are hereby foreclosed. The United States Marshal, his/her representative, or an
20 Internal Revenue Service Property Appraisal and Liquidation Specialist (“PALS”) representative
21 is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell
22 the Subject Properties free and clear of the right, title, and interest of all parties to this action and
23 any successors in interest or transferees of those parties. The United States may choose either the

1 United States Marshal or a PALS representative to carry out the sale under this Order of
2 Foreclosure and Judicial Sale and shall make the arrangements for any sales as set forth in this
3 Order. This Order of Foreclosure and Judicial Sale shall act as a special writ of execution and no
4 further orders or process from the Court shall be required.

5 9. The United States Marshal, his/her representative, or a PALS representative is
6 authorized to have free access to the Subject Properties and to take all actions necessary to
7 preserve the Subject Properties, including, without limitation, retaining a locksmith or other
8 person to change or install locks or other security devices on any part thereof, until a deed
9 thereto is delivered to the ultimate purchaser(s).

10 10. In light of the COVID-19 pandemic, it is appropriate to permit mail-in bids as part
11 of the public auction process for this sale.

12 11. The terms and conditions of the sale are as follows:

13 a. Except as otherwise stated herein, the sale of the Subject Properties shall
14 be by public auction, by mail-in bid or through in person auction, to the
15 highest bidder, free and clear of all liens and interests of parties to this
16 action, with the proceeds of such sale to be distributed in accordance with
17 the priority of the lienholders set forth in paragraph 16, below.

18 b. The sale shall be subject to all laws, ordinances, and governmental
19 regulations (including building and zoning ordinances), affecting the
20 premises, and easements and restrictions of record, if any.

21 c. The sale shall be conducted by mail-in bid, or held at the United States
22 District Court for the Western District of Washington on the Subject
23 Properties' premises, or at any other place in accordance with the

1 provisions of 28 U.S.C. §§ 2001 and 2002, at a date and time announced
2 by the United States Marshal, his/her representative, or a PALS
3 representative. Opening of mail-in bid forms will occur at the PALS office
4 location.

5 d. Notice of the sale shall be published once a week for at least four
6 consecutive weeks before the date fixed for the sale in at least one
7 newspaper regularly issued and of general circulation in Pacific County,
8 Washington, and, at the discretion of the Marshal, his/her representative,
9 or a PALS representative, by any other notice that it or its representative
10 may deem appropriate. **State or local law notice requirements for**
11 **foreclosures or execution sales do not apply to the sale under federal**
12 **law, and state or local law regarding redemption rights do not apply**
13 **to this sale.** The notice or notices of sale shall describe the Subject
14 Properties and shall contain the material terms and conditions of sale in
15 this Order of Foreclosure and Sale. If the sale is conducted via mail-in bid,
16 all bids are to be received by PALS no later than 11:00 am the day of the
17 sale.

18 e. The minimum bid will be set by the Internal Revenue Service. If the
19 minimum bid is not met or exceeded, the Marshal, his/her representative,
20 or a PALS representative may, without further permission of this Court,
21 and under the terms and conditions in this Order of Foreclosure and
22 Judicial Sale, hold new public sales, if necessary, and reduce the minimum
23 bid or sell to the highest bidder.

1 f. Bidders shall be required to deposit, at the time of sale, under mail-in bid
2 or via in-person auction, with the Marshal, his/her representative, or a
3 PALS representative, a minimum of 10 percent of the bid, with the deposit
4 to be made by a certified or cashier's check payable to the United States
5 District Court for the Western District of Washington. If the sale is
6 conducted via mail-in bid, the deposit is to be provided with the bid and
7 will be returned if the bid is not accepted. Before being permitted to bid at
8 the sale, whether by mail-in bid or public auction, bidders shall display to
9 the Marshal, his/her representative, or a PALS representative satisfactory
10 proof of compliance with the deposit requirement.

11 g. Each mail-in bid will be deemed to make a first bid of the minimum bid
12 specified by PALS. Each mail-in bid must also specify the maximum bid
13 the bidder wishes to make. Failure to specify a maximum bid will result in
14 the bid being invalid, and the PALS shall return the bid and deposit to the
15 bidder.

16 h. If the PALS receives at least two valid mail-in bids, the winning bidder
17 shall be the one with the highest maximum bid, and the sales price will be
18 the lesser of (1) the second-highest maximum bid plus \$1,000, or (2) the
19 highest maximum bid.

20 i. If two or more different mail-in bidders specify the same maximum bid
21 and that maximum bid is the highest maximum bid, the PALS may,
22 without further authorization from the Court, solicit further mail-in bids
23 from all such bidders until a single bidder has the highest maximum bid.

1 j. The balance of the purchase price of the Subject Properties in excess of
2 the deposit tendered shall be paid to the Marshal or a PALS representative
3 (whichever person is conducting the sale) within 30 days after the date the
4 bid is accepted, by a certified or cashier's check payable to the United
5 States District Court for the Western District of Washington. If the
6 successful bidder or bidders fails to fulfill this requirement, the deposit
7 shall be forfeited and shall be applied to cover the expenses of the sale,
8 including commissions due under 28 U.S.C. §1921(c), with any amount
9 remaining to be applied first to the federal tax liabilities of Dennis W.
10 Kreger, Sr. The Subject Properties shall be again offered for sale under the
11 terms and conditions of this Order of Foreclosure and Judicial Sale or, in
12 the alternative, sold to the second-highest bidder. The United States may
13 bid as a credit against its judgment without tender of cash.

14 k. The sale of the Subject Properties shall not be final until confirmed by this
15 Court. The Marshal or a PALS representative shall file a report of sale
16 with the Court within 30 days from the date of receipt of the balance of the
17 purchase price.

18 l. Upon confirmation of the sale, the Marshal or PALS representative shall
19 promptly execute and deliver a deed of judicial sale conveying the Subject
20 Properties to the purchaser or purchasers.

21 m. Upon confirmation of the sale or sales, the interests of, liens against, or
22 claims to the Subject Properties held or asserted by the United States and
23 any other parties to this action or any successors in interest or transferees

1 of those parties shall be discharged and extinguished. The sale is ordered
2 pursuant to 28 U.S.C. §2001. **Redemption rights under state or local**
3 **law shall not apply to this sale under federal law.**

4 n. Upon confirmation of the sale, the purchaser or purchasers are responsible
5 for having the Recorder of Deeds of Pacific County, Washington cause the
6 transfer of the Subject Properties to be reflected in the Pacific County
7 property records.

8 12. Until the Subject Properties is sold, the Estate of Dennis W. Kreger, Sr. shall take
9 all reasonable steps necessary to preserve the Subject Properties (including all buildings,
10 improvements, fixtures, and appurtenances thereon) including, without limitation, maintaining
11 fire and casualty insurance policies on the Subject Properties. It shall keep current in paying real
12 property taxes as they are assessed by Pacific County. It shall not commit waste against the
13 Subject Properties, nor shall he cause or permit anyone else to do so. It shall not do anything that
14 tends to reduce the value or marketability of the Subject Properties, nor shall he cause or permit
15 anyone else to do so. It shall not record any instruments, publish any notice, or take any other
16 action that may directly or indirectly tend to adversely affect the value of the Subject Properties
17 or that may tend to deter or discourage potential bidders from participating in the public sale, nor
18 shall he cause or permit anyone else to do so. In addition, Chris S. Gilgore and Laura L. Gilgore
19 shall have the same obligations concerning Property II. **Violation of this paragraph shall be**
20 **deemed a contempt of Court and punishable as such.**

21 13. All persons occupying the Subject Properties shall leave and vacate permanently
22 the property no later than 15 days after the date of this Order, each taking with them his or her
23 personal property (but leaving all improvements, buildings, fixtures, and appurtenances) when

1 leaving and vacating. If any person fails or refuses to leave and vacate the Subject Properties by
2 the time specified in this Order, the United States Marshal's Office or his/her representative is
3 authorized to take whatever action it deems appropriate to remove such person or persons from
4 the premises, whether or not the sale of such property or properties is being conducted by a
5 PALS representative. If any person fails or refuses to remove his or her personal property from
6 the Subject Property by the time specified herein, the personal property remaining at the Subject
7 Properties thereafter is deemed forfeited and abandoned, and the United States Marshal's Office,
8 his/her representative, or the PALS representative is authorized and directed to remove and
9 dispose of it in any manner they see fit, including sale, in which case the proceeds of sale are to
10 be applied first to the expenses of sale, and then to the tax liabilities at issue herein.

11
12 14. Notwithstanding the terms of the immediately preceding paragraph, if, after the
13 sale of the Subject Properties are confirmed by this Court, the Subject Properties remains
14 occupied, a writ of assistance may, without further notice, be issued by the Clerk of Court
15 pursuant to Rule 70 of the Federal Rules of Civil Procedure to compel delivery of possession of
16 the Subject Properties to the purchaser or purchasers thereof.

17 15. If any person occupying the Subject Properties vacates the Subject Properties
18 prior to the deadline set forth in Paragraph 13, above, such person shall notify counsel for the
19 United States no later than two business days prior to vacating the property of the date on which
20 he or she is vacating the property. Notification shall be made by leaving a message for counsel
21 for the United States, Rika Valdman, at (202) 514-6056.

22 16. The Marshal, his/her representative, or a PALS representative, shall deposit the
23 amount paid by the purchaser or purchasers into the registry of the Court. Upon appropriate
motion for disbursement or stipulation of the parties, the Court will disburse the funds in

1 accordance with the Stipulations between the United States and Pacific County, and the United
2 States and Chris S. Gilgore and Laura Gilgore (Dkt. Nos. 18, 21).

3 IT IS SO ORDERED.

4
5 Dated this 28th day of October, 2020.

6
7
8 

9
10

BENJAMIN H. SETTLE
United States District Judge

11
12
13
14 Respectfully presented by:

15 RICHARD E. ZUCKERMAN
16 Principal Deputy Assistant Attorney General

17 /s/ Rika Valdman
18 RIKA VALDMAN
19 Trial Attorney, Tax Division
20 U.S. Department of Justice
21 P.O. Box 683
Washington, D.C. 20044-0683
Telephone: 202-514-6056
Fax: 202-307-0054
rika.valdman@usdoj.gov

22 *Attorneys for the United States of America*
23