

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
HELENA DIVISION**

**UNITED STATES OF AMERICA**

**PLAINTIFF**

**VS.**

**No. 2:16-cv-00138- JLH**

**KILGORE PLANTING, LLC;  
WILLIAM W. KILGORE, Individually  
And on Behalf of Kilgore Planting, LLC;  
MONA N. KILGORE; CACH, LLC;  
DISCOVER BANK; GREAT SENECA  
FINANCIAL CORPORATION;  
CAPITAL ONE BANK; STATE OF  
ARKANSAS, DEPARTMENT OF  
FINANCE AND ADMINISTRATION**

**DEFENDANTS**

**JUDGMENT**

Plaintiff United States of America seeks judgment *in rem* against real property in St. Francis County, Arkansas, and foreclosure of mortgages on the subject property that secure payment of loans from the U.S. Department of Agriculture (USDA), Farm Service Agency (FSA) to defendants Kilgore Planting, LLC, William W. Kilgore and Mona N. Kilgore. The other defendants are made parties because they may have or claim an interest in the subject property. The government's complaint seeks foreclosure of the interest that each defendant may have or claim in the subject property. The government does not seek to recover money damages against any defendant. The defendant State of Arkansas, Department of Finance and Administration, filed an answer asserting a subordinate lien, and consents to judgment *in rem* as provided herein. After having been served with summons and complaint, the defendants Kilgore Planting, LLC.; William W. Kilgore; Mona N. Kilgore; CACH, LLC; Discover Bank; Great Seneca Financial Corporation; and Capital One Bank have not filed an answer or other response, or otherwise made

an appearance herein, and are in default. A Clerk's Default has been entered against each of these defendants. It is, therefore, hereby ORDERED, DECREED AND ADJUDGED:

1. The Court has jurisdiction over the parties and over the property described below.
2. The payments due from defendants Kilgore Planting, LLC; William W. Kilgore and Mona N. Kilgore on their loans from USDA FSA are delinquent. There is presently due and owing on their promissory notes principal and interest in the total sum of \$278, 399.19 as of, and including, July 15, 2016, with interest accruing thereafter at the rate of \$22.075 per day.
3. The above described indebtedness owed to the plaintiff United States of America is secured by mortgages executed and acknowledged by William W. Kilgore and Mona N. Kilgore, husband and wife, that were filed in the records of the Circuit Clerk and Recorder of St. Francis County, Arkansas as follows: filed on July 21, 2005 in Book 743 at page 521; filed on May 18, 2006 in Book 761 at page 845; filed on July 17, 2007 in book 780 at page 281 and filed on July 11, 2008 in Book 792 at page 940. The above-described mortgages collectively grant and convey to plaintiff United States of America, U.S. Department of Agriculture, a first lien on the following described real property in St. Francis County, Arkansas, together with all fixtures, appurtenances and improvements thereon:

THE NORTHWEST QUARTER (NW¼) OF THE NORTHEAST QUARTER (NE¼) OF SECTION 16, TOWNSHIP 6 NORTH, RANGE 4 EAST OF THE FIFTH PRINCIPAL MERIDIAN, LESS AND EXCEPT THE FOLLOWING TRACT OF PROPERTY: BEGINNING AT THE SOUTHEAST CORNER OF SAID NW¼ OF THE NE¼ OF SAID SECTION 16; THENCE NORTH ALONG THE EAST LINE OF THE SAID NW¼ OF THE NE ¼ A DISTANCE OF 460 FEET TO THE CENTER LINE OF A COUNTY ROAD; THENCE WEST ALONG THE CENTER LINE OF SAID COUNTY ROAD 475 FEET TO A POINT; THENCE SOUTH A DISTANCE OF APPROXIMATELY 460 FEET TO THE SOUTH LINE OF SAID NW¼ OF THE NE¼; THENCE EAST 475 FEET TO THE POINT OF BEGINNING.

THE REAL PROPERTY IS COMMONLY KNOW AS NW¼ OF THE NE¼ OF SECTION 16, T6N, R4E OF THE 5<sup>TH</sup> PM, ST. FRANCIS COUNTY, AR.

4. Judgment *in rem* against the above-described property is hereby awarded to the plaintiff United States of America, U.S. Department of Agriculture, in the sum of \$278, 399.19 as of July

15, 2016, with interest thereafter at the rate of \$22.075 per day until fully paid, plus any additional advances and recoverable charges for protection and maintenance of the property during the pendency of this action, and the costs of this action.

5. The mortgages held by the United States of America, USDA, FSA, described in paragraph 3, above, are paramount and superior to all right, title, claim, estate and interest of all defendants in and to the above-described property.

6. The United States Department of the Treasury, by and through its agency, Internal Revenue Service ("IRS"), has a lien on the subject property by virtue of a federal tax lien in the original amount of \$4,326.22 against defendant William Kilgore, filed in the records of the Circuit Clerk and Recorder of St. Francis County, Arkansas on October 5, 2007, in Book N, page 345. The above-described federal tax lien is subordinate to the mortgage lien held by the United States Department of Agriculture, and is hereby foreclosed. Any sale proceeds remaining after payment of the costs of sale and the Judgment herein awarded the United States of America, U.S. Department of Agriculture, shall be paid to the IRS, to the extent of the tax debt owed under the above-described federal tax lien.

7. Defendant State of Arkansas, Department of Finance and Administration ("DF&A"), has a lien on the subject property by virtue of a Certificate of Indebtedness in the original amount of \$2,430.57 against William Kilgore, filed in the records of the Circuit Clerk and Recorder of St. Francis, County, Arkansas on September 24, 2010. The lien of defendant DF&A is subordinate to the mortgage lien of the United States of America, U.S. Department of Agriculture, and subordinate to the above-described IRS tax lien, and is hereby foreclosed. DF&A's lien shall attach to and be paid from any surplus remaining after payment of the expenses of sale, the

Judgment herein awarded to the United States of America, U.S. Department of Agriculture, and the tax debt due under the above-described IRS tax lien.

8. The defendants Kilgore Planting, LLC; William W. Kilgore; Mona N. Kilgore; CACH, LLC; Discover Bank; Great Seneca Financial Corporation; and Capital One Bank, after having been served with complaint and summons, are in default, as evidenced by a Clerk's Default entered against each of these defendants. The allegations of plaintiff's complaint against said defendants are taken and accepted as true. All right, title, interest, estate, and all rights of dower, curtesy, homestead, and equity or statutory right of redemption, said defendants may have or claim in and to the above-described property are subordinate to the mortgage lien of the United States of America, U.S. Department of Agriculture, and are hereby foreclosed.

9. If the Judgment herein awarded to the United States of America, USDA, is not paid within ten days from the date of entry of this Judgment, the United States Marshal is directed to sell the above-described property at public auction to the highest bidder by certified check, or on a credit of 60 days, at the front door of the St. Francis County Courthouse, Forrest City, Arkansas. The date and time of the sale shall be fixed by the Marshal. If purchased on credit, payment of the purchase price shall be secured by one of the following methods, at the purchaser's option: Furnish a corporate security bond, or furnish a letter of credit from a financial institution, or post a 10% down payment by certified check or money order. The corporate surety bond and letter of credit shall be in the amount of the purchase price, plus interest at the rate of 10% per annum from date of sale, and shall be subject to the approval of the U.S. Marshal. The 10% down payment shall be forfeited in the event of failure to pay for the property within 60 days, in which event the Marshal shall resell the property. In the event of a down payment, the purchaser shall pay interest on the balance of the purchase price at the rate of 10% per annum from date of sale. A lien against

the property shall be retained to further secure payment of the purchase money. The property shall be sold subject to any unpaid property taxes. If the plaintiff shall become the purchaser at such sale for a sum equal to or less than the indebtedness owed to plaintiff as of the date of sale, it may credit its bid against the amount of the debt and this credit shall be an extinguishment of the debt to the extent of the credit. The Marshal shall give notice of the sale as required by 28 U.S.C. § 2002, and shall forthwith report the result of the sale to the court.

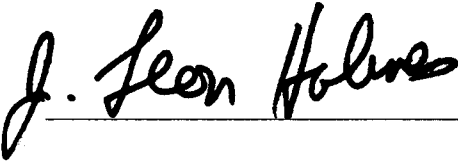
10. Upon the sale of the above-described property, all right, title, claim, interest, estate, equity and statutory right of redemption, and all rights of dower, curtesy, and homestead, of the defendants, and each of them, in and to the subject property, and every part thereof, and improvements and appurtenances thereon, shall from that date be foreclosed and forever barred.

11. The purchaser at the sale shall be given possession upon demand and the Clerk of this Court is hereby authorized and directed to issue writs of assistance to the United States Marshal for the Eastern District of Arkansas, who will proceed to place the purchaser in possession of the property.

12. The sale proceeds, after expenses of sale, shall be paid and distributed to the U.S. Department of Agriculture, Farm Service Agency, to the extent of the Judgment herein awarded; next, to the IRS to the extent of the tax debt due under the above-described federal tax lien; and next, to DF&A, to the extent of the debt due under its above-described Certificate of Indebtedness. Any surplus remaining shall be retained by the U.S. Marshal, subject to further orders of the Court.

13. Jurisdiction of this cause will be retained for the making of such further orders as may be necessary to effectuate this Judgment.

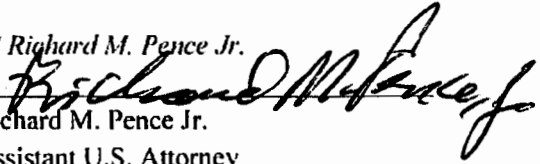
IT IS SO ORDERED this 25<sup>th</sup> day of August, 2017.

  
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United States District Judge

Approved:

*/s/ Richard M. Pence Jr.*

  
Richard M. Pence Jr.  
Assistant U.S. Attorney  
Attorney for Plaintiff

*Michael J. Wehrle*

Michael J. Wehrle  
Revenue Legal Counsel  
Attorney for Defendant State of Arkansas, DF&A