

1 CAROLINE D. CIRAULO
Acting Assistant Attorney General

2 G. PATRICK JENNINGS
3 Trial Attorney, Tax Division
4 U.S. Department of Justice
5 P.O. Box 683
6 Ben Franklin Station
7 Washington, D.C. 20044-0683
8 Telephone: (202) 307-6648
9 Email: guy.p.jennings@usdoj.gov

7 BENJAMIN B. WAGNER
8 United States Attorney
9 Eastern District of California
10 *Of Counsel*

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,
14 Plaintiff,
15 v.
16 UN SIK KIM; DOO SUN KIM, et al.
17 Defendant.

Case No. 2:14-cv-02207 KJM-CKD

ORDER TO VACATE PREMISES

19
20 This matter is before the court on the government's motion to vacate
21 premises. ECF No. 31. On October 15, 2015, the court granted the government's
22 unopposed motion for partial summary judgment to enforce a judgment lien against 5533
23 Palmdale Way, Sacramento, California, 95842, the former residence of defendants Un
24 Sik Kim and Doo Sun Kim. ECF No. 30. The court's order of sale provided, inter alia,
25 that tenants may continue to occupy the property, but only if the tenants pay rent to the
26 Internal Revenue Services (IRS) and comply with the terms set out in the order. *Id.* at
27 11, ¶¶ 12–14. If a tenant fails to comply with any of the terms, the order allows the
28 government to file a motion requesting removal or ejectment of the tenant. *Id.* at 12,

1 ¶ 15. At the time of the court's order, the property was not occupied by any tenants. *Id.*
2 at 9 n.3. The order further provides that within seven days, a cover sheet and copy of
3 the order shall be personally served on each tenant, other than Un Sik Kim and Doo Sun
4 Kim, or, if no such person is available, shall be affixed to the front door, placed in a mail
5 slot, or pushed under a front door, as the person making service judges most likely to
6 give notice to the occupant. *Id.* at 12, ¶ 16.

7 On February 22, 2016, the government filed the instant motion to vacate
8 the premises, as provided by the court's order of sale. ECF No. 31. Counsel for the
9 government submitted a declaration representing that a neighbor informed the
10 government that the property is now being occupied by Steven and Lorelei Glatt.
11 Jennings Decl. ¶ 2, ECF No. 31-2. Counsel represents that the court's order of sale was
12 delivered to the property, but the Glatts have not contacted the IRS or paid rent as
13 provided by the court's order. *Id.* The government filed the instant motion to give the
14 Glatts and any other occupants due process before the occupants are evicted and the
15 property is sold. ECF No. 31-1 at 1.

16 Counsel represents in his declaration that he express mailed a copy of the
17 motion, a notice of opportunity to state a claim of right to possession, and a claim of right
18 to possession form to the Glatts at the 5533 Palmdale Way property. Jennings Decl.
19 ¶ 4; Certificate of Service, ECF No. 31-6. A Revenue Officer of the IRS filed a
20 declaration stating that he personally served a copy of the same documents on the
21 Glatts at the 5533 Palmdale Way property on February 23, 2016. Kemp Decl. ¶¶ 3-4,
22 ECF No. 34. The notice of opportunity to state a claim of right to possession advises
23 that the occupants will be evicted without further hearing by the court unless the
24 occupants complete and return the attached claim of right to possession form to the
25 court on or before March 11, 2016. ECF No. 31-3 at 2. To date, the court has not
26 received any claims of right to possession, so the court decided the government's motion
27 without a hearing. 26 U.S.C. § 7402(a) gives the court authority to enter such orders "as
28 may be necessary or appropriate for the enforcement of the internal revenue laws."

1 Using that authority and to give effect to its previous order, the court ORDERS the
2 following:

3 Steven Glatt, Lorelei Glatt, and every other person occupying the Property
4 at 5533 Palmdale Way, Sacramento, California, are ORDERED to vacate and depart
5 from the Property, taking with them all of their personal property, no later than **12**
6 **o'clock p.m. (noon) on April 8, 2016.**¹

7 At any time after noon on April 8, 2016, the United States Marshal for the
8 Eastern District of California (including any Deputy United States Marshal and any
9 persons requested to assist the United States Marshal) is authorized and directed to
10 take all actions necessary to enter the Property, at any time of the day or night, and evict
11 and eject all unauthorized persons located there, including Steven Glatt, Lorelei Glatt
12 and any other occupants.

13 To accomplish this and to otherwise enforce this Order, the United States
14 Marshal is authorized to enter the Property, and any and all structures and vehicles
15 located thereon, and to use reasonable force as necessary.

16 When the United States Marshal concludes that all unauthorized persons
17 have vacated, or been evicted from, the Property, he shall relinquish possession and
18 custody of the Property to the Internal Revenue Service, or its designee.

19 Should any person fail to vacate and depart from the Property, or attempt
20 to re-enter onto the Property, such person will be found in contempt of this Court, and
21 such contempt may result in a fine, incarceration, or both.

22 No person shall be permitted to return to the Property, or remain thereon,
23 without the express written authorization of the United States Marshal, or the Internal
24 Revenue Service, or the United States Department of Justice. Unauthorized persons
25 who re-enter the Property after April 8, 2016, may be ejected by the United States
26 Marshal without further order of the Court.

27 _____
28 ¹ The court has extended the government's proposed deadline to allow time for the
occupants to receive notice of this order.

1 If any personal property is located on the Property when the United States
2 Marshal executes this Order, the United States Marshal and/or the Internal Revenue
3 Service are authorized to move, remove, store and/or abandon such personal property.

4 **Personal property remaining on the Property is deemed forfeited and**
5 **abandoned if it is not removed before April 8, 2016**, and the United States Marshal
6 and/or the Internal Revenue Service, and their respective representatives and/or
7 designees, are authorized to dispose of the personal property in any manner deemed fit,
8 including sale.

9 The government shall provide notice of this order to all occupants of the
10 Property by hand delivery or by posting the order in a prominent location at the Property,
11 with a copy of the order to be mailed to the Property, within seven (7) days after the date
12 this order is entered.

13 **IT IS SO ORDERED.**

14 Dated: March 28, 2016.

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17 UNITED STATES DISTRICT JUDGE
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