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8 Attorneys for the United States of America

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,)	No. C-08-4371 MMC
)	
13 Plaintiff,)	STIPULATION FOR AUTHORIZATION FOR
)	PRIVATE SALE AND PROPOSED ORDER
14 v.)	AMENDED
)	
15 DOUGLAS CARAWAY, et al.,)	
)	
16 Defendants.)	
)	
17)	

18
 19 This matter came before the Court for hearing on April 14, 2017, on two motions filed by
 20 Defendant Douglas Caraway, a Motion for Relief from Order FRCP 60(b)(2)(5) and (c)(2) (ECF #226),
 21 and a Motion for Approval of Private Sale (ECF #238). Counsel for the United States of America,
 22 Fremont Bank, State of California Franchise Tax Board, Employment Development Department of the
 23 State of California, and Douglas Caraway were present along with defendant, Douglas Caraway. These
 24 parties hereby stipulate and agree as follows:

- 25 1. The Motion for Approval of Private Sale should be granted upon the terms and
 26 Conditions set forth in this Stipulation below. The Motion for Relief from Order FRCP 60(b)(2)(5) and
 27 (c)(2) is moot should the Court order a private sale in accordance with the terms set forth in this
 28 Stipulation setting forth the terms for a private sale.

1 b.) Sales proceeds, in the amount of \$1,219,000, shall be paid to First American Title Company
2 Escrow No. 4101-5371483 ("FATC") and the following distributions made:

- 3 i.) County Taxes from 4/20/17 to 7/1/17 in the amount of \$749;
4 ii.) County Taxes second installment 2016-2017 plus late charge and redemption fee
5 in the total amount of \$2,129.67;
6 iii.) County documentary transfer tax in the amount of \$1,340.00;
7 iv.) Notary/signing fee to FATC of \$150;
8 v.) Commission to Keller Williams of \$36,570;
9 vi.) Commission to Dwell Realtors, Inc. of \$30,475.00;
10 vii.) Fremont Bank in the total amount of \$161,177.72, which includes interest through
11 5/1/17, re Deed of Trust recorded on 1/15/1992 under instrument No. 1992-
12 005345 and Deed of Trust recorded on 1/15/1992 under instrument No. 1992-
13 005346 ;
14 viii.) Chester Gilbert in the amount of \$58,932.14 including interest, re Deed of Trust
15 recorded on 10/18/2000 under instrument No. 2000-129987 in favor of Chester J.
16 Gilbert by Assignment of Deed of Trust recorded on 8/27/02 under instrument
17 No. 2002-167963;
18 ix.) United States of America in payment of the February 22, 2017 Judgment entered
19 in favor of the United States of America and against Douglas Caraway for unpaid
20 federal income taxes for: 1) tax years 1999 through 2004, inclusive, the sum of
21 \$163,897.25 plus statutory additions computed through May 1, 2017, for total
22 sum of \$201,874.86; and 2) tax years 1995 and 1998 in the sum of \$17,737.10
23 plus additions computed through May 1, 2017, for a total of \$22,849.29, re lis
24 pendens recorded on 1/18/2012 in favor of Plaintiff, United States of America,
25 under instrument No. 2012-006130, and re lien recorded in favor of the United
26 States of America on 7/7/2008 as instrument No. 2008-052063, lien recorded in

27
28 interes at 1.0%(ECF #155). Collectronics, Inc. no longer has a valid lien.

1 favor of the United States of America on 2/12/2009 as instrument No. 2009-
2 014533, lien recorded in favor of the United States of America on 4/1/15 as
3 instrument No. 2015-031300, lien recorded in favor of the United States of
4 America on 12/30/15 as instrument No. 2015-136985, lien recorded in favor of
5 the United States of America on 2/05/2015 as instrument No. 2015-010297, and
6 lien recorded in favor of the United States of America on 4/1/2015 as instrument
7 No. 2015-031301;

8 x.) Employment Development Department of the State of California in the total
9 amount of \$79,124.31 for California employment tax liability owed by Douglas
10 Caraway dba Caraway Audio for the period from July 1, 1992 through December
11 31, 1995; through April 25, 2017, with interest accruing thereafter at a daily rate
12 of 0.00010959, until fully paid, re lien in favor of the State of California,
13 Employment Development Department recorded on 12/16/2002 under instrument
14 No. 2002-266013 and refiled 11/9/2012 under instrument No. 2012-167013;

15 xi.) State of California Franchise Tax Board in the total amount of \$74,237.98 through
16 4/25/17 , for California income tax liability owed by Douglas Caraway for tax
17 years 1995, 1996, 1997, 1999, 2000, 2001, re lien in favor of the State of
18 California Franchise Tax Board recorded on 10/2/2008 as instrument No. 2008-
19 110540, lien in favor of the State of California Franchise Tax Board recorded on
20 2/28/2011 as instrument No. 2011-024112, and lien in favor of the State of
21 California Franchise Tax Board recorded on 12/3/2012 as instrument No.
22 2012180939, with interest accruing thereafter at a daily amount of \$8.08 until
23 paid;

24 xii.) Patrick R. Giles, in the principal amount of \$19,618.70, plus interest in the
25 amount of \$10,786.69 , re Judgment in favor of Patrick R. Giles recorded on
26 12/29/2011 as instrument No. 2011-162638;

27 xiii.) IRS in the total amount of \$41,674.53, which includes interest and statutory
28 additions through May 1, 2017, for federal income taxes owed by Douglas

1 Caraway for 2005, 2006, 2007, 2008, 2009, 2010 and 2011, re lien in favor of the
2 United States of America recorded on 3/7/2013 as Instrument No. 2013-036505;

3 xiv.) William E. Taggart, in the total sum of \$154,444.76, which includes interest
4 through, May 1, 2017, re Judgment recorded on 12/14/2016 as instrument No.
5 2016-132879;

6 xv.) Karen Hawkins, in the total sum of \$3,296.92, which includes interest through,
7 May 1, 2017, re Judgment in favor of Karen L. Hawkins recorded on 12/14/2016
8 as instrument No. 2016-132880;

9 xvi.) Deckard Law Firm \$71,377.38, re Deed of Trust in favor of the Deckard Law
10 Firm recorded on 1/13/2017 as instrument No. 2017-004344;

11 xvii.) Goodman Law Corporation in the total amount of \$18,992;

12 xviii.) Stephen Caraway, deceased, has no interest in the subject property;

13 xix.) Remaining balance to Douglas Caraway.

14 5. The parties agree that if the sales price of \$1,219,000 for a private sale is paid to escrow
15 on or before April 29, 2017, then the statutory requirements of three appraisals and publication
16 notification set forth in 28 U.S.C. § 2001 is waived by all parties.

17 6. The Clerk of the Court of the Northern District of California is holding \$20,000 in
18 forfeited funds paid by bidders at auctions of the subject property. Pursuant to Paragraph 8 h of the
19 February 22, 2017 Judgment, which provides that if the sale of the subject property to bidders at auction
20 fails, "the deposit shall be forfeited and shall be applied to cover the expenses of the sale, including
21 commissions due under 28 U.S.C. § 1921(c), with any amount remaining to be applied to the tax
22 liabilities of Douglas Caraway at issue herein," the sum of \$5,501.41 for auction related costs shall be
23 paid to the IRS from the \$20,000 in forfeited auction deposits, with the balance of \$14,498.59 to be
24 deposited into the Registry of the Court and held until further order of this court.

25 7. If Douglas Caraway is unable to comply with the terms of the private sale as set forth
26 above, the United States shall sell the property at auction on May 17, 2017, as authorized by this Court's
27 Judgment and Decree of Sale entered February 22, 2017 (ECF #224).

28 8. Unless and until the Subject Property is sold, Douglas Caraway and any current or future

1 tenant of the Subject Property shall keep the subject Property fully insured, shall not commit waste or
2 allow any other person to commit waste on the Subject Property.

3 SO STIPULATED:

4 BRIAN STRETCH
5 United States Attorney

6
7 /s/ Cynthia Stier
8 CYNTHIA STIER
9 Assistant United States Attorney

10 Diane Chamberlin Deckard
11 The Deckard Law Firm
12 96 North Third Street, Suite 350
13 San Jose, CA 95112
14 (408) 971-4359
15 Attorney for Douglas Caraway

16 /s/ Terrance Lloyd Stinnett
17 Terrance Lloyd Stinnett
18 Fremont Bank
19 39150 Fremont Blvd. 3rd Floor
20 Fremont, CA 94538
21 Attorney for Fremont Bank

22 Karen W. Yiu
23 /s/ Karen W. Yiu
24 Karen W. Yiu
25 Office of the Attorney General
26 1515 Clay Street, 20th Floor
27 P.O. Box 70550
28 Oakland, CA 94612-0550
510-879-1245
Attorney for EDD and FTB

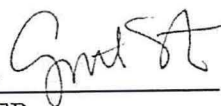
ORDER

This matter came before the Court for hearing on April 14, 2017, on two motions filed by
Defendant Douglas Caraway, a Motion for Relief from Order FRCP 60(b)(2)(5) and (c)(2) (ECF #226),

1 tenant of the Subject Property shall keep the subject Property fully insured, shall not commit waste or
2 allow any other person to commit waste on the Subject Property.

3 SO STIPULATED:

4 BRIAN STRETCH
5 United States Attorney

6
7 /s/ Cynthia Stier 
8 CYNTHIA STIER
9 Assistant United States Attorney

10 
11 Diane Chamberlin Deckard
12 The Deckard Law Firm
13 96 North Third Street, Suite 350
14 San Jose, CA 95112
15 (408) 971-4359
16 Attorney for Douglas Caraway

17 Terrance Lloyd Stinnett
18 Fremont Bank
19 39150 Fremont Blvd. 3rd Floor
20 Fremont, CA 94538
21 Attorney for Fremont Bank

22 /s/ Karen W. Yiu
23 Karen W. Yiu
24 Office of the Attorney General
25 1515 Clay Street, 20th Floor
26 P.O. Box 70550
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ORDER

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1 and a Motion for Approval of Private Sale (ECF #238). Counsel for the United States of America,
2 Fremont Bank, State of California Franchise Tax Board and Employment Development Department of
3 the State of California, and Douglas Caraway, along with his counsel, were present. The Court, ^{having} ~~after~~
4 ~~heard arguments and having considered~~ ~~hearing arguments, and considering~~ all pleadings and documents filed by the parties, IT IS ORDERED,
5 ADJUDGED and AGREED as follows:

6 1. The Motion for Approval of Private Sale is granted upon the terms and conditions set
7 forth below. The Motion for Relief from Order FRCP 60(b)(2)(5) and (c)(2) to allow a private sale is
8 moot in light of the ruling allowing the private sale.

9 2. The Subject Property may be sold at a private sale for a sales price of \$1,219,000, on or
10 before April 29, 2017, pursuant to First American Title Company Escrow No. 4101-5371483, subject to
11 the following:

12 a. The sale shall be free and clear of the interests of: Douglas Caraway; Fremont
13 Bank; the State of California Employment Development Department; the State of California
14 Franchise Tax Board; the San Joaquin County District Attorney's Office, Family Support
15 Division; Chester J. Gilbert; John Eggli; Collection Bureau of America; Amanda Hummel; Fred
16 Hummel; Florence Linor Rege, Stephen Caraway; Estate of Lorraine Caraway; Unknown Heirs
17 ^{Collectronics, Inc.;} of the Estate of Lorraine Caraway; [^] and Patrick R. Giles. The liens, judgment and interests of the
18 parties shall attach to the sales proceeds in the same extent, manner and priority as they attached
19 to the Subject Property:

20 b. Sales proceeds, in the amount of \$1,219,000, shall be paid to First American
21 Title Company Escrow No. 4101-5371483 ("FATC") and the following
22 distributions made:

- 23 i.) County Taxes from 4/20/17 to 7/1/17 in the amount of \$749;
24 ii.) County Taxes second installment 2016-2017 plus late charge and redemption fee
25 in the total amount of \$2,129.67;
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28 v.) Commission to Keller Williams of \$36,570;

- 1 vi.) Commission to Dwell Realtors, Inc. of \$30,475;
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- 10 ix.) United States of America in payment of the February 22, 2017 Judgment entered
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14 sum of \$201,874.86; and 2) tax years 1995 and 1998 in the sum of \$17,737.10
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17 under instrument No. 2012-006130, and re lien recorded in favor of the United
18 States of America on 7/7/2008 as instrument No. 2008-052063, lien recorded in
19 favor of the United States of America on 2/12/2009 as instrument No. 2009-
20 014533, lien recorded in favor of the United States of America on 4/1/15 as
21 instrument No. 2015-031300, lien recorded in favor of the United States of
22 America on 12/30/15 as instrument No. 2015-136985, lien recorded in favor of
23 the United States of America on 2/05/2015 as instrument No. 2015-010297, lien
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27 amount of \$79,124.31 for California employment tax liability owed by Douglas
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8 State of California Franchise Tax Board recorded on 10/2/2008 as instrument No.
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10 recorded on 2/28/2011 as instrument No. 2011-024112, and lien in favor of the
11 State of California Franchise Tax Board recorded on 12/3/2012 as instrument No.
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15 of \$10,786.69, re Judgment in favor of Patrick R. Giles recorded on 12/29/2011 as
16 instrument No. 2011-162638;
- 17 xiii.) IRS in the total amount of \$41,674.53, which includes interest and statutory
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19 Caraway for 2005, 2006, 2007, 2008, 2009, 2010 and 2011, re lien in favor of the
20 United States of America recorded on 3/7/2013 as Instrument No. 2013-036505;
- 21 xiv.) William E. Taggart, in the total sum of \$154,444.76, which includes interest
22 through May 1, 2017, re Judgment recorded on 12/14/2016 as instrument No.
23 2016-132879;
- 24 xv.) Karen Hawkins, in the total sum of \$3,296.92, which includes interest through
25 May 1, 2017, re Judgment recorded on 12/14/2016 as instrument No. 2016-
26 132880;
- 27 xvi.) Deckard Law Firm , \$71,377.38 re Deed of Trust in favor of the Deckard Law
28 Firm recorded on 1/13/2017 as instrument No. 2017-004344;

- 1
- 2 xvii.) Goodman Law Corporation in the total amount of \$18,992;
- 3 xviii.) Stephen Caraway, deceased, has no interest in the subject property;
- 4 xix.) Remaining balance to Douglas Caraway.

5 3. If the private sale for \$1,219,000 is paid to escrow on or before April 29, 2017, then the
6 statutory requirements of three appraisals and publication notification set forth in 28 U.S.C. § 2001 ^{are} ~~is~~
7 waived by all parties. ^

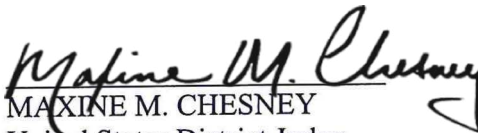
8 4. The Clerk of the Court of the Northern District of California is holding \$20,000 in
9 forfeited funds paid by bidders at auctions of the subject property. Pursuant to Paragraph 8 h of the
10 February 22, 2017 Judgment, which provides that if the sale of the subject property to bidders at auction
11 fails, "the deposit shall be forfeited and shall be applied to cover the expenses of the sale, including
12 commissions due under 28 U.S.C. § 1921(c), with any amount remaining to be applied to the tax
13 liabilities of Douglas Caraway at issue herein," the sum of \$5,501.41 for auction related costs shall be
14 paid to the IRS from the \$20,000 in forfeited auction deposits, with the balance of \$14,498.59 to be
15 deposited into the Registry of the Court and held until further order of this court. If Douglas Caraway is
16 unable to comply with the terms of the private sale as set forth above, the United States shall sell the
17 property at auction on May 17, 2017, as authorized by this Court's Judgment and Decree of Sale entered
18 February 22, 2017 (ECF #224).

19 5. Unless and until the Subject Property is sold, Douglas Caraway and any current or future
20 tenant of the Subject Property shall keep the subject Property fully insured, shall not commit waste or all
21 any other person to commit waste on the Subject Property.

22

23 SO ORDERED this 26th day of April, 2017.

24 BY THE COURT:

25 
26 MAXINE M. CHESNEY
27 United States District Judge