

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)
	)Case No. 07-00564 JMS KSC
Plaintiff,	)
	) <b>FINDINGS AND RECOMMENDATION TO</b>
v.	) <b>GRANT THE GOVERNMENT'S MOTION</b>
	) <b>TO CONFIRM SALE</b>
NICHOLAS P. WEBB I, FRANCINE	)
M. WEBB, NICHOLAS P. WEBB II,	)
FIRST HAWAIIAN BANK, RICHARD	)
C. REYNOLDS, LINDA L. REYNOLDS,	)
STATE OF HAWAII, DEPARTMENT OF	)
TAXATION, MAUI COLLECTION	)
SERVICE, INC.,	)
	)
Defendants.	)
_____	)
	)
FIRST HAWAIIAN BANK,	)
	)
Counterclaimant,	)
	)
v.	)
	)
UNITED STATES OF AMERICA,	)
	)
Counterclaim	)
Defendant,	)
	)
and	)
	)
NICHOLAS P. WEBB I; FRANCINE M.	)
WEBB; NICHOLAS P. WEBB II;	)
RICHARD C. REYNOLDS; LINDA L.	)

REYNOLDS; STATE OF HAWAII, )  
DEPARTMENT OF TAXATION; MAUI )  
COLLECTION SERVICE, INC., )  
 )  
Cross-Clam )  
Defendants. )  
\_\_\_\_\_ )

**FINDINGS AND RECOMMENDATION TO GRANT  
THE GOVERNMENT'S MOTION TO CONFIRM SALE**

Before the Court is Plaintiff United States' ("the Government") Motion to Confirm Sale ("Motion"), filed May 1, 2009. No opposition or objection to the Motion were filed. Defendant State of Hawaii Department of Taxation responded that it takes no position with respect to the Motion. Defendant First Hawaiian Bank ("FHB") responded that it did not oppose or object to the Motion but instead submitted evidence establishing the amount it is owed with respect to a mortgage and lien it held against the subject property. The matter was heard on June 16, 2009, with Jeremy N. Hendon, Esq., appearing by telephone, Assistant United States Attorney Harry Yee, Esq., appearing in person, and Internal Revenue Service PALS Representative Kathryn Clark, appearing by telephone, all appearing for the Government and Jonathan W.Y. Lai, Esq., appearing in person, for FHB. No other party responded to the motion nor appeared at the hearing.<sup>1</sup> No other person appeared to oppose the motion or to seek to

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<sup>1</sup>The Court notes that it received a submission from Nicholas P. Webb I on June 15, 2009, but that such submission is completely nonsensical and asserts no basis to deny the relief sought in the Motion.

reopen the bidding.

After careful consideration of the Motion, supporting documents, the hearing on the matter, and the relevant legal authority, this Court HEREBY FINDS and RECOMMENDS that the Government's Motion to Confirm Sale be GRANTED for the reasons set forth on the record at the June 16, 2009 hearing.

In addition, the Motion also seeks distribution of the sales proceeds. For the reasons set forth on the record at the June 16, 2009 hearing, the Court HEREBY RECOMMENDS that the proceeds from the sale of the subject property be disbursed as set forth below.

IT IS RECOMMENDED that the Clerk be directed to disburse the proceeds of the sale, which totaled \$318,000.00 and which were deposited with the Court in two separate deposits in April 2009, in the following manner:

(1) \$5,714.96 to the IRS (payable to the United States Treasury, and sent to U.S. Department of Justice, Tax Division, P.O. Box 310, Ben Franklin Station, Washington D.C. 20044) for costs and fees associated with the sale of the subject property;

(2) \$178,043.84 plus interest after June 16, 2009 at the per diem rate of \$21.03 to FHB (payable to First Hawaiian Bank c/o Jonathan W.Y. Lai, Esq., and sent to WATANABE ING LLP, First Hawaiian Center, 999 Bishop Street, 23rd Floor, Honolulu, Hawaii 96813) for FHB's superior lien on the subject property;

(3) the remaining proceeds at that point should be divided in half with one-half apportioned for Francine M. Webb and the remaining one-half apportioned for Nicholas P. Webb I;

(4) out of Francine M. Webb's one-half share, \$13,593.49 to the United States (payable to the United States Treasury, and sent to U.S. Department of Justice, Tax Division, P.O. Box 310, Ben Franklin Station, Washington D.C. 20044) for the joint federal income tax (Form 1040) liabilities of Nicholas P. Webb I and Francine M. Webb for the 1992 tax year;

(5) out of remaining balance of Francine M. Webb's one-half share, \$836.83 to FHB (payable to First Hawaiian Bank c/o Jonathan W.Y. Lai, Esq., and sent to WATANABE ING LLP, First Hawaiian Center, 999 Bishop Street, 23rd Floor, Honolulu, Hawaii 96813) for accumulated late charges with respect to FHB's mortgage on the subject property;

(6) the remaining balance of Francine M. Webb's one-half share to Francine M. Webb and sent to her last known address; and

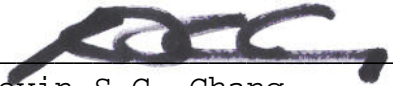
(7) all of Nicholas P. Webb I's one-half share to the United States ((payable to the United States Treasury, and sent to U.S. Department of Justice, Tax Division, P.O. Box 310, Ben Franklin Station, Washington D.C. 20044) to be applied to partially satisfy Nicholas P. Webb I's federal income tax liabilities (Form 1040), individually, at issue in this action.

IT IS FURTHER RECOMMENDED that the United States shall promptly submit to the Court a proposed deficiency judgment against Nicholas P. Webb I for the remaining federal income tax (Form 1040) liabilities he still owes, and that were at issue in this action, after it has applied the distribution to it described above to partially satisfy those liabilities.

IT IS SO FOUND AND RECOMMENDED.

DATED AT HONOLULU, HAWAII, June 18, 2009.



  
Kevin S.C. Chang  
United States Magistrate Judge

Presented by:  
EDWARD H. KUBO JR., Esq.  
United States Attorney  
District of Hawaii  
HARRY YEE (3790)  
Asst. United States Attorney

/s/ Jeremy N. Hendon  
JEREMY N. HENDON  
Trial Attorney, Tax Division  
U.S. Department of Justice