

FLORENCE T. NAKAKUNI (2286)
United States Attorney
District of Hawaii

EDRIC M. CHING (6697)
Assistant U.S. Attorney
Room 6-100, PJKK Federal Bldg.
300 Ala Moana Boulevard
Honolulu, Hawaii 96850-6100
Telephone: (808) 541-2850
Facsimile: (808) 541-3752
E-mail: edric.ching@usdoj.gov

Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CIVIL NO. 10-00535 SOM RLP
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF
)	UNITED STATES OF AMERICA'S
vs.)	MOTION TO APPROVE
)	COMMISSIONER'S REPORT FILED
ALFRED R. PEREZ, ISLAND)	OCTOBER 21, 2011, AND FOR
COMMUNITY LENDING CORPORATION,)	CONFIRMATION OF FORECLOSURE
HAWAII FIRST FEDERAL CREDIT)	SALE
UNION, HICKAM FEDERAL CREDIT)	
UNION, COUNTRYWIDE HOMELOANS)	
INC.,)	
)	
Defendants.)	
)	

ORDER GRANTING PLAINTIFF UNITED STATES OF AMERICA'S
MOTION TO APPROVE COMMISSIONER'S REPORT FILED
OCTOBER 21, 2011, AND FOR CONFIRMATION OF FORECLOSURE SALE

On November 4, 2011, Plaintiff UNITED STATES OF AMERICA ("United States") filed its Motion To Approve Commissioner's Report Filed October 21, 2011 and for Confirmation of Foreclosure Sale ("Motion To Confirm"). No opposition to the Motion To

Confirm was filed. The Court exercised its discretion not to hold a hearing on the Motion to Confirm pursuant to Local Rule 7.2(d). Having considered the record and arguments by counsel, the Court hereby grants the Motion To Confirm based on the following:

I. FINDINGS OF FACT

1. This is a civil action brought by the United States, on behalf of note holder and assignee Department of Veterans Affairs, seeking monetary judgment against Defendant ALFRED R. PEREZ on a Mortgage, Note and Mortgage Modification Agreement encumbering the property located at 5246 Kalae Place, in the County of Hawaii, State of Hawaii, and designated as Tax Map Key No. (3) 6-4-025-030 (CPR 002)(the "Mortgaged Property").

2. Jurisdiction over this action is based on 28 U.S.C. § 1345.

3. On July 9, 2011, the Court issued its Findings of Fact and Conclusions of Law and Order Granting Interlocutory Decree of Foreclosure and Deficiency Judgment and appointed Daniel S. Peters, Esq., to serve as the Commissioner to sell the Mortgaged Property.

4. On October 21, 2011, the Commissioner filed his report detailing the foreclosure of the Mortgaged Property and the

winning bid of the United States of \$229,138.00 at the auction on October 17, 2011.

5. Based upon the Commissioner's report, the Court finds that the winning bid of \$229,138.00 by the United States is a fair and reasonable bid for the Mortgaged Property and confirms the sale.

6. The Commissioner incurred \$2,095.83 in expenses and \$4,000.00 in fees. These fees and costs are fair and reasonable.

7. The amount due and owing by Defendant ALFRED R. PEREZ to the United States, calculated to November 15, 2011, is as follows:

Principal Balance	\$190,961.12
Interest	19,357.70
Late Charges	1,319.21
Escrow Advances Due	18,922.03
TOTAL	\$230,560.06

The daily per diem rate is \$20.9272.

II. CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Court concludes as follows:

1. The Commissioner's Report filed on October 17, 2001, is ratified, approved, and confirmed.

2. In accordance with the Findings of Fact and Conclusions of Law and Order Granting Interlocutory Decree of Foreclosure and

Deficiency Judgment, the sale of the Mortgaged Property to the United States for \$229,138.00 is ratified, approved, and confirmed.

3. The amount of Defendant ALFRED R. PEREZ's indebtedness to the United States is to be applied to the amount of the sales price, as noted above.

4. The United States shall be responsible for the Commissioner's fees and costs, unpaid property taxes, and other closing costs.

5. Once the required funds have been deposited by the United States into escrow, the Commissioner shall take the necessary steps to convey the Mortgaged Property to the United States.

6. The Commissioner is allowed \$2,095.83 in expenses and \$4,000.00 in fees.

7. Upon making the conveyance of the Mortgaged Property to the United States and filing the distribution statement and accounting, the Commissioner shall be discharged from further duties and responsibilities as Commissioner.

8. Defendants and all parties and persons claiming by, through or under the Defendants shall be forever barred from any and all right, title, interest, and claims at law or in equity to the Mortgaged Property, except for liens for real property taxes

and assessments lawfully imposed by governmental authorities against the Mortgaged Property.

9. Upon delivery of the conveyance to the United States, the United States shall be entitled to immediate, exclusive possession for the Mortgaged Property. The Court reserves jurisdiction to enter such orders as may be necessary or appropriate to assist the United States to gain such possession.

10. A judgment for possession and a writ of possession in favor of the United States shall be issued, commanding the sheriff or United States Marshals Service to remove from the Mortgaged Property any tenants or occupants and any persons holding by, through, or under any tenant or occupant.

11. The Commissioner or the United States is authorized to dispose of any personal property, if any, remaining on the Mortgaged Property.

12. Pursuant to sections 501-151 and 634-51, Hawaii Revised Statutes, as amended, any and all other and further encumbrances or purchase with respect to the mortgaged property, or any part, whose interest arises on or after January 25, 2011, the date the Notice of Lis Pendens was filed in the State of Hawaii Bureau of Conveyances, are forever barred from any and all right, title, and interest in and to the Mortgaged Property.

13. This Order is entered as a final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, as there is no just reason for delay.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, February 15, 2012.



/s/ Susan Oki Mollway
Susan Oki Mollway
Chief United States District Judge

USA v. Alfred R. Perez; Civil No. 10-00535 SOM RLP; ORDER
GRANTING PLAINTIFF UNITED STATES OF AMERICA'S MOTION TO APPROVE
COMMISSIONER'S REPORT FILED OCTOBER 21, 2011, AND FOR
CONFIRMATION OF FORECLOSURE SALE