

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 12-00319 ACK-KSC
)	
RONALD B. STATON, BRENDA STATON,)	
NAVY FEDERAL CREDIT UNION,)	
CAPSTEAD MORTGAGE CORPORATION,)	
and STATE OF HAWAII,)	
)	
Defendants.)	
)	

ORDER AND WRIT OF ASSISTANCE

In the Order Confirming Sale, Approving Commissioner's Report, and Determining Priority of Future Disbursements ("Order"), the Court confirmed the sale of the real property located at 233 Kalalau Street, Honolulu, Hawaii 96825, identified by Tax Map Key No. (1)3-9-023-039 ("Residence") to Purchaser Jacob Wurthner ("Purchaser"). ECF No. 330 at 21-22 ¶ 6, 23 ¶ 2. The Court directed that, at the escrow closing for the Residence (originally scheduled for April 27, 2018), Commissioner Lyle S. Hosoda shall deliver a quitclaim deed to the Purchaser entitling him to possess the Residence free and clear of all interests and claims of all parties to this proceeding. ECF No. 330 at 24 ¶ 6.

The Court later proposed that the escrow closing be continued to May 11, 2018, in order to provide the Statons

additional time to leave the Residence, and the Purchaser agreed to the proposed continuation to accommodate the Statons. See ECF No. 343.

By letter dated May 8, 2018, Commissioner Hosoda requested that the Court issue a writ of assistance in connection with the transition of the Residence to the Purchaser. Commissioner Hosoda reported that it appears the assistance of the United States Marshal's office or another law enforcement agency may be necessary to secure possession of the Residence following the escrow closing scheduled for 11:00 a.m. on Friday, May 11, 2018.

The Court's Order stated: "If any person fails or refuses to leave and vacate the Residence by the [escrow closing on May 11, 2018], the Commissioner is authorized to take all actions that are reasonably necessary to bring about the ejectment of those persons, including obtaining a writ of possession." ECF No. 330 at 25 ¶ 9. Additionally, the Order provided: "[I]f, after the sale closing . . . the Residence remains occupied, a writ of assistance may, without further notice, be issued by the Clerk of Court pursuant to Rule 70 of the Federal Rules of Civil Procedure to compel delivery of possession of the real property at issue to the Purchaser." Id. at ¶ 10. The Order further provided that: "If any person fails or refuses to remove his or her personal property from the

premises by the [escrow closing on May 11, 2018], any personal property remaining on the Residence thereafter is deemed forfeited and abandoned, and the Commissioner is authorized to remove it and dispose of it in any manner the Commissioner sees fit, including sale. The sale proceeds are to be deposited into the registry of the Court for further distribution." Id. at ¶ 9.

The Court may issue all writs necessary to enforce the Order. See 28 U.S.C. § 1651(a) (providing that courts may "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law"). Pursuant to this authority, the Court finds it appropriate to instruct the Clerk of Court to issue a writ of assistance compelling delivery of possession of the Residence to the Purchaser and removal of any personal property remaining on the Residence following the escrow closing scheduled for 11:00 a.m. on May 11, 2018.

Accordingly, it is ORDERED that the Clerk of Court may issue a Writ of Assistance to the United States Marshal for the District of Hawaii and/or any other law enforcement agency to enforce the Order pursuant to the following terms and conditions:

- 1) In the event the Statons continue to occupy the Residence following the escrow closing scheduled for 11:00 a.m. on

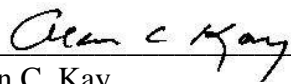
May, 11, 2018, the United States Marshal and/or any other law enforcement agency shall enter the Residence and use reasonable measures to remove the Statons therefrom;

- 2) If the Statons fail or refuse to remove their personal property from the Residence by the time specified above, any personal property remaining is deemed forfeited and abandoned, and Commissioner Hosoda is authorized to remove it and dispose of it in any manner he sees fit, including sale;
- 3) Commissioner Hosoda is to accompany the United States Marshal and/or any other law enforcement agency to the Residence;
- 4) Anyone interfering with the enforcement of the Order and this Writ of Assistance is subject to arrest by the United States Marshal and/or any other law enforcement agency;
- 5) The Order shall be enforced, and reasonable force may be used if necessary and with caution regarding the Statons' age, and this Writ of Assistance shall be executed by the United States Marshal and/or any other law enforcement agency, and Commissioner Hosoda.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, May 9, 2018.





Alan C. Kay
Sr. United States District Judge

United States v. Staton, et al., Civ. No. 12-00319 ACK-KSC, Order and Writ of Assistance