

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

KATHRYN KENEALLY
Assistant Attorney General

NATHANIEL B. PARKER
Trial Attorney, Tax Division
United States Department of Justice
P.O. Box 683, Ben Franklin Station
Washington, DC 20044-0683
Telephone: (202) 307-6547
Facsimile: (202) 307-0054
Email: nathaniel.b.parker@usdoj.gov
western.taxcivil@usdoj.gov
Attorneys for the United States

DANIEL G. BOGDEN
United States Attorney
Of Counsel

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID G. PFLUM; PATRICIA A. PFLUM;
CARSON CITY; PATRICK PALMERI AS
TRUSTEE FOR THE LITTLE FLOWER
SECURITY TRUST; MARGARET PALMERI
AS TRUSTEE FOR THE LITTLE FLOWER
SECURITY TRUST

Defendants.

Case No. 3:12-cv-00507-MMD-VPC

ORDER OF
FORECLOSURE AND JUDICIAL SALE

This Order of Foreclosure and Judicial Sale is entered pursuant to the provisions of 28 U.S.C. §§ 2001 and 2002 and 26 U.S.C. §§ 7402 and 7403. The Court hereby orders as follows:

1. The parcel of real property upon which foreclosure was sought is a tract of real property commonly referred to as 4460 Conte Drive, Carson City, NV and particularly described as:

ORDER OF SALE

U.S. Department of Justice
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6547

1 The North ½ of the Southwest 1/4 of the Northeast 1/4 of the
2 Northeast 1/4 of the Northeast 1/4 of section 33, Township 15
3 North, Range 20 East, M.D.B. & M. Carson City, Nevada.
4 Excepting therefrom the East 25 feet of said land as set forth in
5 dedication to Carson City, State of Nevada, for Public
6 Roadway and Utility Purposes, recorded on April 6, 2972 in
7 Book 121 at Page 6464 as Document 2834, Official Records.
8 Together with all water and water rights appurtenant to the
9 herein described property.
10 Together with all singular the tenements, hereditaments and
11 appurtenances thereunto belonging or in anywise appertaining.

12 The property is hereinafter referred to as the “subject property.”

- 13 2. The Court held that the United States holds valid federal tax liens arising from Mr. Pflum’s income
14 tax liabilities for the 1997 through 2007 tax years and an employment tax liability for the period
15 ending December 31, 1997 on the subject property.
- 16 3. The United States’ federal tax liens against the subject property are hereby foreclosed. The United
17 States Marshal for the District of Nevada, his/her representative, or an Internal Revenue Service
18 Property Appraisal and Liquidation Specialist (“PALS”) representative is authorized and directed
19 under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell the subject property, free and
20 clear of the right, title and interest of all parties to this action and any successors in interest or
21 transferees of those parties. The United States may choose either the United States Marshal or a
22 PALS representative to carry out the sale under this Order of Foreclosure and Judicial Sale and shall
23 make the arrangements for the as set forth in this Order. This Order of Foreclosure and Judicial Sale
24 shall act as a special writ of execution and no further orders or process from the Court shall be
25 required.
- 26 4. The United States Marshal for the District of Nevada, his/her representative, or a PALS representative
27 is authorized to have free access to the subject property and to take all actions necessary to preserve it
28 including without limitation retaining a locksmith or other person to change or install locks or other
security devices on any parts thereof, until a deed thereto is delivered to the ultimate purchaser.
5. The terms and conditions of the sale of the subject property are as follows:

- a. Except as otherwise stated herein, the sale of the subject property shall be by public

ORDER OF SALE

U.S. Department of Justice
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6547

1 auction to the highest bidder, free and clear of all liens and interests.

- 2 b. The sale shall be subject to all laws, ordinances, and governmental regulations
3 (including building and zoning ordinances), affecting the premises, and easements and
4 restrictions of record, if any.
- 5 c. The sale shall be held at the courthouse of the county or city in which the subject
6 property is located, on the subject property's premises, or at any other place in
7 accordance with the provisions of 28 U.S.C. §§ 2001 and 2002, at a date and time
8 announced by the United States Marshal, his/her representative, or a PALS
9 representative.
- 10 d. Notice of the sale shall be published once a week for at least four consecutive weeks
11 before the date fixed for the sale in at least one newspaper regularly issued and of
12 general circulation in Carson City, Nevada, and, at the discretion of the Marshal,
13 his/her representative, or a PALS representative, by any other notice that it or its
14 representative may deem appropriate. **State law notice requirements for
15 foreclosures or execution sales do not apply to this sale under federal law.** The
16 notice of sale shall describe the subject property and contain the material terms and
17 conditions of sale in this Order of Foreclosure and Judicial Sale.
- 18 e. The minimum bid for the sale will be set by the Internal Revenue Service. If the
19 minimum bid for the sale is not met or exceeded, the Marshal, his or her
20 representative, or a PALS representative may, without further permission of this
21 Court, and under the terms and conditions in this Order of Foreclosure and Judicial
22 Sale, hold a new public sale, if necessary, and reduce the minimum bid or sell to the
23 highest bidder;
- 24 f. Bidders shall be required to DEPOSIT at the time of the sale with the Marshal, his/her
25 representative, or a PALS representative, a minimum of ten percent of the bid with the
26 deposit to be made by a certified or cashier's check payable to the United States

27
28 ORDER OF SALE

U.S. Department of Justice
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6547

1 District Court for the District of Nevada. Before being permitted to bid at the sale,
2 bidders shall display to the Marshal, his/her representative, or a PALS representative
3 satisfactory proof of compliance with this requirement.

4 g. The balance of the purchase price of the subject property in excess of the deposit
5 tendered shall be paid to the Marshal or a PALS representative (whichever person is
6 conducting the sale) within twenty (20) days after the date the bid is accepted by a
7 certified or cashier's check payable to the United States District Court for the District
8 of Nevada. If the successful bidder fails to fulfill this requirement, the deposit shall be
9 forfeited and shall be applied to cover the expenses of the sale, including commissions
10 due under 28 U.S.C. § 1921(c), with any amount remaining to be applied to the federal
11 tax liabilities of David Pflum. The subject property may be offered to the next highest
12 bidder or may be again offered for sale under the terms and conditions of this Order of
13 Foreclosure and Judicial Sale. The United States may bid as a creditor against its
14 judgment without tender of cash.

15 h. The sale of the subject property shall not be final until confirmed by this Court. The
16 Marshal or a PALS representative shall file a report of the sale with the Court,
17 together with a proposed order of confirmation of sale, within 30 days from the date of
18 receipt of the balance of the purchase price.

19 i. Upon confirmation of the sale, the Marshal or PALS representative shall execute and
20 deliver a deed of judicial sale conveying the subject property to the purchaser.

21 j. Upon confirmation of the sale, the interests of, liens against, or claims to the subject
22 property held or asserted by the United States and any other parties to this action or
23 any successors in interest or transferees of those parties shall be discharged and
24 extinguished. The sale is ordered pursuant to 28 U.S.C. § 2001. **Redemption rights**
25 **under state law shall not apply to this sale under federal law.**

26 k. After confirmation of the sale, the Office of the Clerk, Carson City, shall cause

27
28 ORDER OF SALE

U.S. Department of Justice
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6547

1 transfer of the subject property to be reflected upon that city's register of title.

2 6. Until the subject property is sold, Mr. Pflum shall each take all reasonable steps necessary to
3 preserve the subject property (including all buildings, improvements, fixtures and appurtenances
4 thereon) including, without limitation, maintaining fire and casualty insurance policies on the
5 subject property. He shall not commit waste against the subject property, nor shall he cause or
6 permit anyone else to do so. He shall not do anything that tends to reduce the value or
7 marketability of the subject property, nor shall he cause or permit anyone else to do so. He shall
8 not record any instruments, publish any notice, or take any other action that may directly or
9 indirectly tend to adversely affect the value of the subject property or that may tend to deter or
10 discourage potential bidders from participating in the public sale, nor shall he cause or permit
11 anyone else to do so. **Violation of this paragraph shall be deemed a contempt of court and**
12 **punishable as such.**

13 7. All persons occupying the subject property shall leave and vacate permanently such property no
14 later than 30 days after entry of this Order, each taking with them his or her personal property
15 (but leaving all improvements, buildings, fixtures, and appurtenances) when leaving and vacating.
16 If any person fails or refuses to leave and vacate the subject property by the time specified in this
17 Order, the United States Marshal's Office or the Sheriff of Columbia County is authorized to take
18 whatever action they deem appropriate to remove such person or persons from the premises,
19 whether or not the sale of such property is being conducted by a PALS representative. If any
20 person fails or refuses to remove his or her personal property from the subject property by the
21 time specified herein, the personal property remaining on the subject property thereafter is
22 deemed forfeited and abandoned, and the United States Marshal's Office or the PALS
23 representative is authorized and directed to remove and dispose of it in any manner they see fit,
24 including sale, in which case the proceeds of sale are to be applied first to the expenses of sale,
25 and then to the tax liabilities at issue herein.

26 8. Notwithstanding the terms of the immediately preceding paragraph, if, after the sale of the subject

27
28 ORDER OF SALE

U.S. Department of Justice
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6547

1 property is confirmed by this Court, the subject property remains occupied, a writ of assistance
2 may, without further notice, be issued by the Clerk of Court pursuant to Rule 70 of the Federal
3 Rules of Civil Procedure to compel delivery of possession of the subject property to the
4 purchasers thereof.

5 9. If Mr. Pflum, or any other persons occupying the subject property, vacates the subject property
6 prior to the deadline set forth in paragraph 8, above, such person shall notify counsel for the
7 United States no later than 2 business days prior to vacating the property of the date on which he
8 or she is vacating the property. Notification shall be made by leaving a message for said counsel,
9 Nathaniel B. Parker, at (202) 307-6547, or by electronic mail directed to
10 nathaniel.b.parker@usdoj.gov.

11 10. The Marshal, his or her representative, or a PALS representative, shall deposit the amount paid
12 by the purchaser of the subject property into the registry of the court. Upon appropriate motion
13 for disbursement or stipulation of the parties, the court will disburse the funds arising from the
14 sale of the subject property in the following partial order of preference until these expenses and
15 liens are satisfied:

16 ///

17
18 ///

21
22
23
24
25
26
27
28 ORDER OF SALE

U.S. Department of Justice
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6547

11.

PRIORITY	PAYEE	AMOUNT
First	Internal Revenue Service	In the amount of allowed costs and expenses of sale, including any commissions due under 28 U.S.C. § 1921(c) and including an amount sufficient to cover the costs of any steps taken to secure or maintain the subject property pending sale and confirmation by the Court
Second	Carson City	In the amount of any and all outstanding property taxes encumbering the subject property as set forth in the Parties' stipulation, Docket #18.
Third	United States	In the amount of the outstanding federal tax liabilities of Mr. Pflum.

DATED this 22nd day of October 2013.



MIRAND M. DU
UNITED STATES DISTRICT JUDGE

Presented by:

KATHRYN M. KENEALLY
Assistant Attorney General

/s/ Nathaniel B. Parker
NATHANIEL B. PARKER
Trial Attorney, Tax Division
U.S. Department of Justice

Of Counsel:
DANIEL G. BOGDEN
U.S. Attorney, D. Nev.

ORDER OF SALE

U.S. Department of Justice
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6547