

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

USA

v.

Civil No. 07-cv-398-JM

Henry W. McElroy, Jr.,
Donna Q. McElroy, and
Digital Federal Credit Union

O R D E R

The United States of America moves for partial summary judgment as a matter of law, that "(1) the United States has valid and subsisting federal tax liens on all property and rights to property of Henry W. McElroy, Jr., including his interest in the property located at 15 Iroquois Road, Nashua, New Hampshire, as more particularly described in the Complaint; (2) the Court order the federal tax liens for the liabilities of Henry W. McElroy, Jr., be foreclosed against the Property, and that said Property be sold in a judicial sale, according to law, free and clear, with the net proceeds of the sale, after the satisfaction of the direct costs of sale, to be distributed to the United States, in accord with its lawful priority." Document no. 28.

Facts

On February 25, 2009, the United States secured a judgment for unpaid federal income taxes against Henry W. McElroy, Jr., in the amount of \$52,313.59. Assessments were made for these taxes, penalties and interest as of January 1, 2009.


Discussion

When the assessments were made, federal tax liens arose on Mr. McElroy's interest in real estate at 15 Iroquois Road, Nashua, New Hampshire 03063. 26 U.S.C. § 6321. Once those taxes are reduced to judgment, as they are here, the United States is entitled to foreclose its federal tax liens on the property. Donna Q. McElroy and Digital Federal Credit Union have priority interests in the real estate over the United States and these three parties have entered into a stipulation as to priority of foreclosure proceeds.

It is ordered that the United States has valid and subsisting federal tax liens on the real estate at 15 Iroquois Road, Nashua, New Hampshire, 03063, and that the tax liens be foreclosed against the property and that the property be sold in a judicial sale, according to law, free and clear of all liens, with the net proceeds of the sale, after the satisfaction of the direct costs

of sale, to be distributed to the United States, in accord with its lawful priority.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: June 15, 2009

cc: Andrea A. Kafka, Esq.
Henry W. McElroy, Jr., Esq.
David A. Keele, Esq.