

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff/Counter-Defendant,)	
)	
v.)	
)	Case No. 1:20-cv-00795-PJK-SCY
JAMES M. SIMONES; Individually)	
and as Trustee of the ANCIENT OF)	
DAYS TRUST and ADELINA MONNET,)	
)	
Defendants/Counter-Claimants,)	
)	
and JO ANN HARTMAN STOCKTON)	
as Trustee of the ANCIENT OF DAYS)	
TRUST; and BROOKY STOCKTON as)	
Trustee of the ANCIENT OF DAYS TRUST,)	
)	
Defendants.)	

FINAL JUDGMENT

THIS MATTER came before the court on the United States’ Motion for Summary Judgment (ECF No. 87) and the United States’ Motion to Dismiss Counterclaim (ECF No. 110). Decisions have been rendered granting the motion for summary judgment (ECF No. 108) and dismissing the counterclaims (ECF No. 118).

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, and DECREED that:

- (1) Pursuant to 26 U.S.C. § 7402, Defendant-Counterclaimant and Taxpayer, James M. Simones, is liable to the United States for federal income (Form 1040) tax, penalties, and interest assessed against him for tax years 2007, 2008, 2009, 2011, and 2012 in the combined amount of \$284,684.04, plus prejudgment and post-judgment interest thereon at the rates set forth in 26

- U.S.C. §§ 6601, 6621 and 28 U.S.C. § 1961(c), until paid (the “Income Tax Liabilities”).
- (2) The Ancient of Days Trust is Mr. Simones’s nominee, and holds title to the Holiday and Johnson Properties described below in paragraphs 5(i) and 5(ii), as the mere nominee for Mr. Simones, who is the true and equitable owner of those properties.
- (3) The transfers of the Holiday and Zamora properties were fraudulent under New Mexico law and are set aside. Mr. Simones therefore retains true and sole ownership of the Holiday and Zamora properties described below in paragraphs 5(i) and 5(iii) and these properties are subject to the government’s valid federal tax liens for the Income Tax Liabilities.
- (4) Pursuant to 26 U.S.C. § 7403, the United States has valid liens on the Taxpayer’s Holiday, Johnson, and Zamora Properties (the “Subject Properties”) and it is entitled to enforce its tax liens against all Subject Properties by filing post-judgment motions for foreclosure sales of the Subject Properties pursuant to further orders of the court, with the proceeds (after costs and expenses of sale) being paid with respect to each of the Subject Properties described below in the following order: (i) first, to ad valorem taxing authorities for taxes due and owing at the time of sale; (ii) second, to the United States to satisfy the Income Tax Liabilities; and (iii) third, to the Taxpayer, if any proceeds remain.

(5) The descriptions of the Subject Properties are as follows:

(i) The Holiday property's legal description is:

LOT NUMBERED THREE (3) IN BLOCK NUMBERED TWO (2) OF RINCON ESCONDIDO ADDITION TO THE CITY OF MORIARTY, NEW MEXICO.

(ii) The Johnson property's legal description is:

TRACT DESIGNATED "B-1-C", SITUATE (SIC) WITHIN THE NORTHWEST QUARTER (NW ¼) OF SEC THIRTY ONE (31), TOWNSHIP EIGHT (8) NORTH, RANGE NINE (9) EAST, N.M.P.M., AS THE SAME IS SHOWN AND DESIGNATED ON THAT CERTAIN PLAT ENTITLED "LANDS OF DR. PAUL H. JOHNSON, PREPARED BY TIMOTHY ODEN , N.M.R.L.P.S. #8667 ON MAY 23, 1988, AT 4:17 O'CLOCK, PM, AS DOCUMENT NUMBER 79391, AND FILED IN CABNET (SIC) B, SLIDE 153, PLAT RECORDS OF TORRANCE COUNTY, NEW MEXICO, FILED IN THE OFFICE OF THE COUNTY CLERK OF TORRANCE COUNTY, NEW MEXICO, SUBJECT THERETO, EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD IN THE OFFICE OF THE CLERK OF SAID COUNTY AND STATE.

(iii) The Zamora property's legal description is:

A CERTAIN TRACT OF LAND SITUATE (SIC) IN SECTION 14, TOWNSHIP 10 NORTH, RANGE 5 EAST, NEW MEXICO PRINCIPAL MERIDIAN, WITHIN THE CANON DE CARNUE GRANT, COUNTY OF BERNALILLO, STATE OF NEW MEXICO.

(6) Considering the potential impact of the sale of property used as a primary residence during the current COVID-19 pandemic, the enforcement of the tax liens against the Taxpayer's residence is stayed for 90 days. The United States may file a motion to lift the stay if it believes circumstances have improved or an earlier sale is necessary to protect the government's interests.

(7) Mr. Simones's and Defendant/Counterclaimant Adelina Monnet's counterclaims are dismissed for lack of jurisdiction.

DATED this 23rd day of September 2021, at Santa Fe, New Mexico.

/s/ Paul Kelly, Jr.
United States Circuit Judge
Sitting by Designation