

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

FILED  
MAY 1 2009  
[Signature]

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

GLEN R. BOSCALJON, Individually  
and on behalf of the Glenmar Trust;  
and MARLENE BOSCALJON,  
Individually and on behalf of the  
Glenmar Trust;

Defendants.

CIV. 07-4111

ORDER OF SALE

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A Judgment has been entered in favor of the United States and against Defendants Glen and Marlene Boscaljon in the amount of \$192,557.88, plus accruals from September 29, 2009. The United States has also been granted a judgment foreclosing the federal tax liens for years 1993 and 1994 against real property located at 2204 South Hawthorne Avenue, Sioux Falls, in Minnehaha County, South Dakota ("the Property") and described as follows:

Lot 10 and the South 6ft of Lot 11 in Block 10 of Pettigrew and Tate's Fourth Addition to Sioux Falls Minnehaha County South Dakota according to the recorded Plat thereof.

In consideration of these matters,

**IT IS ORDERED:**

1. That six months after the entry of this Order of Sale, the Property Appraisal and Liquidation Specialist of the Internal Revenue Service ("PALS") is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell the Property without further order or process.

2. That PALS is authorized to have free access to the Property and to take all actions

necessary to preserve the Property, including but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the Property, until the deed to the Property is delivered to the ultimate purchaser.

3. That the terms and conditions of the sale are as follows:

- a. The sale of the Property shall be free and clear of any interests of Glen and Marlene Boscaljon and any other parties to this action;
- b. The sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Property, and easements and restrictions of record, if any;
- c. The sale shall be held either at the courthouse of the county in which the Property is located or on the Property's premises. The date and time for the sale shall be determined and announced by PALS;
- d. PALS is permitted to enter the premises, and prospective buyers shall be allowed to conduct an inspection of the exterior and interior of the Property at such time as PALS shall determine to be reasonable and convenient;
- e. Notice of the sale shall be published once a week for at least four consecutive weeks before the sale in at least one newspaper regularly issued and of general circulation in Minnehaha County, South Dakota, and at the discretion of PALS, by any other notice as PALS deems appropriate. The notice shall contain a description of the Property and shall contain the terms and conditions of sale in this order of sale;
- f. PALS shall set the minimum bid. If the minimum bid is not met or exceeded, PALS may, without further permission of this Court, and under the terms and conditions in this order of sale, hold a new public sale, if necessary, and reduce the minimum bid;
- g. At the time of the sale, the successful bidder shall deposit with PALS an amount between five (5) and twenty (20) percent of the minimum bid as specified by PALS in the published Notice of Sale. The deposit shall be in the form of a money order or certified or cashier's check payable to the United States District Court for the District of South Dakota. Before being permitted to bid at the sale, potential bidders shall display to PALS the proof that they are able to comply with this requirement. No bids will be accepted from any persons who have not presented proof that, if they are successful bidders, they can make the deposit required by this order of sale.
- h. The successful bidder(s) shall pay the balance of the purchase price for the Property to PALS, within sixty (60) days following the date of the sale, by a certified

or cashier's check or money order payable to the United States District Court for the District of South Dakota. PALS shall deposit the funds with the Clerk of this Court. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and applied towards the expenses of the sale, with any amount remaining to be distributed in accordance with the priorities of the parties in this action. The Property shall be again offered for sale under the terms and conditions of this order of sale or, in the alternative, the Property may be sold to the second highest bidder from the previous auction, if above the minimum bid, without the necessity of conducting another auction. The United States may bid as a credit against its judgment without tender of cash. PALS shall make a report of the sale of the Property, with its proceedings endorsed thereon, showing the manner in which it has executed the same, within sixty days from the date of the sale of the Property;

i. The sale of the Property shall be subject to confirmation by this Court. Upon confirmation of the sale, PALS shall execute and deliver a deed conveying the Property to the purchaser. Upon confirmation of the sale, all interests in, liens against, or claims to the Property that are held or asserted by all parties to this action are discharged and extinguished.

j. Once the sale of the Property is confirmed, the Registrar of Deeds of Minnehaha County, South Dakota shall cause the transfer of the Property to be reflected upon that county's register of title. The successful bidder at the sale shall pay, in addition to the bid amount, any documentary stamps and Clerk's registry fees as required by law;

k. The sale of the Property is ordered in accordance with 28 U.S.C. § 2001, and is made without right of redemption;

4. That until the Property is sold, Glen and Marlene Boscaljon shall take all reasonable steps necessary to preserve the Property (including all buildings, improvements, fixtures and appurtenances on the Properties) in its current condition, including, without limitation, maintaining a fire and casualty insurance policy on the Property. Glen and Marlene Boscaljon shall neither commit waste against the Property nor cause or permit anyone else to do so. They shall neither do anything that tends to reduce the value or marketability of the Property nor cause or permit anyone else to do so. Glen and Marlene Boscaljon shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements or posting signs) that may directly or indirectly tend to adversely affect the value of the Property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall they cause or permit anyone else

to do so.

5. That all persons occupying the Property shall vacate the Property permanently within 30 days of PALS sending a notice to vacate, each taking his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Property). If any person fails or refuses to vacate the Property by the time specified in this Order, PALS is authorized to coordinate with the United States Marshal to take all actions that are reasonably necessary to have those persons ejected. Any personal property remaining on the Property thirty (30) days after the notice to vacate is sent is deemed forfeited and abandoned, and PALS is authorized to remove it and dispose of it in any manner it sees fit, including sale, in which case the proceeds of the sale are to be applied first to the expenses of the sale and the balance to be held for further distribution as ordered by the Court. Checks for the purchase of the personal property shall be made payable to the United States District Court for the District of South Dakota. The Clerk of the Court is directed to accept and deposit these checks into the Court's registry for distribution pursuant to further Order of this Court.

6. That no later than two business days after vacating the Property by the deadline set forth in paragraph 5 above, Glen and Marlene Boscaljon or their counsel shall provide in writing to counsel for the United States an address where they can be reached. A copy of this document shall also be filed with the Court.

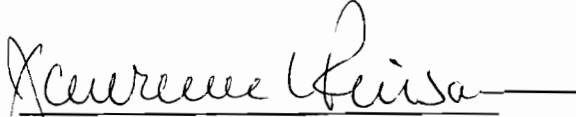
7. That after confirmation of the sale, the sale proceeds are to be paid as follows:

- a. First, to PALS for the expenses of the sale, including any expenses incurred to secure or maintain the property pending sale and confirmation by the Court. If the Government is the successful bidder, and therefore has not tendered cash, the Government shall tender to PALS the expenses of the sale;
- b. Second, to all taxes unpaid and matured that are owed to Minnehaha County, South Dakota for real property taxes on the property; and
- c. Third, to the United States to be applied towards Glen and Marlene Boscaljon's unpaid 1993 and 1994 federal income taxes, plus all accrued interest, penalties, and other additions permitted by law.

8. That the United States will submit a proposed Order for Distribution of the Sale Proceeds in accordance with this Order of Sale after confirmation of the sale of the Property.

Dated this 10<sup>th</sup> day of May, 2010.

BY THE COURT:

  
Lawrence L. Piersol  
United States District Judge

ATTEST:  
JOSEPH HAAS, CLERK

BY:   
Deputy