

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BLAIR ALLEN MCHENRY, *et al.*,

Defendants.

CASE NO. C16-0798-JCC

ORDER OF FORECLOSURE SALE

This matter comes before the Court on the Government’s unopposed motion for an order of foreclosure sale (Dkt. No. 24). The Court ORDERS Jacob Green, Acting United States Marshal for the Western District of Washington (and his successor(s) in office), as follows:

In accordance with the order granting the Government’s motion for default judgment, (Dkt. No. 21) and final judgment (Dkt. No. 22) entered in this case, you shall sell the property located in Whatcom County, Washington, more particularly described as:

A tract of land situated in the Southwest quarter of the Northeast quarter and in the Northwest quarter of the Southeast quarter of Section 5, Township 39 North, Range 2 East of W.M., more particularly described as follows:

Beginning at a quarter stake on the South line of Section 5, Township 39 North, Range 2 East of W.M.; thence North 3126 feet on the quarter line to a point 439 feet North of the center of said Section, which is the point of true beginning; thence South 480 feet on the quarter line to a point 41 feet South of the center of said Section; thence Easterly South 89°30’ East along the line of the 25 Year Old Fence a distance of 900 feet; thence North parallel to the West line of said quarter Section

1 a distance of 500 feet; thence Westerly to the point of beginning. Except the North
230 feet thereof

2 Except Enterprise Road

3 Situated in Whatcom County, Washington.

4 (hereinafter the Real Property).

5 You shall also provide notice of this Order of Foreclosure Sale to Defendants Blair Allen
6 McHenry, Barbara McLeod, and Susan Kane-Ronning, and to any other resident(s) of the Real
7 Property by hand delivery or by leaving a copy of it in a prominent location on the Real
8 Property.

9 Further, you shall file your Return of this Order of Foreclosure Sale within ninety (90)
10 days after the date of this Order, reporting the actions you have taken under this Order.

11 **1. The terms of the sale of the Property shall be as follows:**

- 12 a. The sale of the Real Property shall be free and clear of the interest of
13 Defendants Blair Allen McHenry, Susan Kane-Ronning, and Barbara
14 McLeod, except to the extent that Defendant Blair Allen McHenry has a right
15 of redemption under Washington Revised Code chapter 6.23 or excess funds
16 under Washington Revised Code chapter 6.21. The redemption period shall be
17 12 months.
- 18 b. The sale shall be subject to building lines, if established; all laws, ordinances,
19 and governmental regulations (including building and zoning ordinances)
20 affecting the Real Property; and easements and restrictions of record, if any.
- 21 c. The sale shall be held at the courthouse of the county in which the Real
22 Property is located, on the Real Property's premises, or at any other place in
23 accordance with the provisions of 28 U.S.C. §§ 2001 and 2002 and shall be
24 announced in the Notice of Sale. The date and time for sale are to be
25 announced by the United States Marshal, or his/her representative, in the
26 Notice of Sale.

- 1 d. The Notice of Sale shall be published once a week for at least four
2 consecutive weeks before the sale in at least one newspaper regularly issued
3 and of general circulation in Whatcom County, and, at the discretion of the
4 United States Marshal or his/her representative, by any other notice deemed
5 appropriate. The notice shall contain a description of the Real Property; the
6 time, date, and location of the sale as determined by the United States Marshal
7 or his/her representative; the minimum bid as determined by the United
8 States; and the terms and conditions of sale as described in this Order.
- 9 e. The minimum bid for the Real Property will be set by the United States. If the
10 minimum bid is not met or exceeded, the United States Marshal or his/her
11 representative, with concurrence of the United States, may without further
12 permission of this Court, and under the terms and conditions in this Order,
13 hold a new public sale, if necessary, and reduce the minimum bid as set by the
14 United States, or sell to the highest bidder.
- 15 f. The successful bidder for the Real Property shall be required to deposit at the
16 time of the sale with the United States Marshal, or his/her representative, a
17 minimum of ten percent (10%) of the bid, with the deposit to be made by
18 certified or cashier's check payable to the United States District Court for the
19 Western District of Washington, or cash. Before being permitted to bid at the
20 sale, bidders shall display to the United States Marshal, or his/her
21 representative, proof that they are able to comply with this requirement. No
22 bids will be received from any person(s) who have not presented proof that, if
23 they are the successful bidder(s), they can make the deposit required by this
24 Order.
- 25 g. The balance of the purchase price for the Real Property is to be paid to the
26 United States Marshal within twenty (20) days after the date the bid is

1 accepted, by a certified or cashier's check payable to the United States District
2 Court for the Western District of Washington. If the bidder fails to fulfill this
3 requirement, the deposit shall be forfeited and shall be applied to cover the
4 expenses of the sale, including commissions due under 28 U.S.C. § 1921(c),
5 with any amount remaining to be applied to the Judgment at issue herein. The
6 Real Property shall again be offered for sale under the terms and conditions of
7 this order of sale, or, in the alternative, sold to the second highest bidder if
8 consented to by the United States.

- 9 h. The sale of the Real Property shall be subject to confirmation by this Court.
10 The Marshal shall file a report of sale with the Court, together with a proposed
11 order of confirmation of sale and proposed deed, within thirty (30) days from
12 the date of receipt of the balance of the purchase price.
- 13 i. On confirmation of the sale, the Marshal shall execute and deliver a deed of
14 judicial sale conveying the Real Property to the purchaser.
- 15 j. On confirmation of the sale, all interests in, liens against, or claims to the Real
16 Property and appurtenances that are held or asserted by all parties to this
17 action are discharged and extinguished, except to the extent that such
18 Defendant has rights of redemption under Washington Revised Code chapter
19 6.23.
- 20 k. On confirmation of the sale, the recorder of deeds, Whatcom County,
21 Washington, shall cause transfer of the Real Property and appurtenances to be
22 reflected upon that county's register of title.
- 23 l. Any party to this suit may become a purchaser at such sale. The United States
24 may bid as a credit its Judgment without tender of cash.
- 25 m. The sale shall be "as is" without warranty of any kind.
- 26

1 n. The United States shall have a deficiency judgment against Defendant Blair
2 McHenry in the event the amount received from the sale of the Real Property
3 is insufficient to pay the Judgment of the United States in full.

4 **2. Removal of occupants and personal property.**

5 The United States Marshal (or his/her designee) is authorized and directed to take all
6 actions necessary to enter the Real Property at any time of the day or night and evict and eject all
7 unauthorized persons located there after the date of the foreclosure sale, including Defendants, or
8 any other occupants. To accomplish this and to otherwise enforce this Order, the United States
9 Marshal (or his/her designee) shall be authorized to enter the Real Property and any and all
10 structures and vehicles located thereon, and to use force as necessary. Unauthorized persons who
11 re-enter the Real Property may be ejected by the United States Marshal without further order of
12 the Court. Any personal property remaining on the Real Property after the foreclosure sale is
13 deemed forfeited and abandoned. The United States Marshal's Office is authorized to remove it
14 and to dispose of it in any manner it deems appropriate, including sale, in which case the
15 proceeds of the sale are to be applied first to the expenses of sale and the balance to be paid into
16 the Court for further distribution.

17 **3. Distribution of proceeds.**

18 The proceeds from the sale of the Real Property shall be paid to the Clerk of this Court
19 and applied as far as they shall be sufficient to the following items, in the order specified:

- 20 a. To the United States for the costs of the sale, including the costs and
21 commissions of the United States Marshal and any professional auctioneer if
22 retained and the costs of advertising, selling, and conveying the Real Property
23 incurred by the Government.
- 24 b. To the United States to be applied to the Judgment entered in this case, plus
25 all interest and costs due and owing thereon.
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1 Any balance remaining after the above payments shall be held by the Clerk until further
2 order of the Court.

3 DATED this 5th day of June 2017.

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7 John C. Coughenour
8 UNITED STATES DISTRICT JUDGE

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