

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 15-cv-519-wmc

DARYL E. HIGH, and
GLENDA R. HIGH, RHODA KNIGHT,
GARY RADTKE, K&K AGRONOMY,
LLC, SWIDERSKI EQUIPMENT, INC.,
LADYSMITH FEDERAL SAVINGS &
LOAN, PHILIP OSTROWSKI, RUSK
COUNTY CLERK OF COURTS, KUC'S
IMPLEMENT, CLOVERBELT LUMBER &
FEED COMPANY, INC., FOOD MILL,
AGSTAR FINANCIAL SERVICES,
NORTHERN CENTRAL POWER, CO.,
INDIANHEAD TELEPHONE CO.,

Defendants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-captioned matter having come before the Court to be heard, Honorable William M. Conley, United States District Judge for the Western District of Wisconsin, presiding without a jury, on February 10, 2016, the Plaintiff, United States of America ("Plaintiff"), having appeared by its attorney, the Office of the United States Attorney for the Western District of Wisconsin, and no appearance having been made on behalf of the Defendants herein except as may be noted on the record; and it appearing by the Declaration of Barbara L. Oswald, Assistant United States Attorney,

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Office of the United States Attorney, on file herein, that Defendant is in default, except K&K Agronomy LLC; and it further appearing that due notice of the Motion for Judgment by Default and for Judgment on the Pleadings has been made to the Defendants, and that a Certificate of Service was filed with the Clerk of the United States District Court for the Western District of Wisconsin; and the Court having heard arguments from Plaintiff's counsel, therefore makes and files the following Findings of Fact and Conclusions of Law constituting its decision in this action.

FINDINGS OF FACT

1. The allegations set forth in Plaintiff's complaint are proven true.
2. There is now due and unpaid on all Notes and Mortgages as of February 10, 2016, the following sums: See Attachment A.
3. No proceedings have been had at law or otherwise for the recovery of the sum secured by said Notes and Mortgages.
4. The mortgaged premises are described as follows:

The North One-Half of the Northeast Quarter of Section 14,
Township 33 North, Range 5 West, Town of Marshall, Rusk
County, Wisconsin.
5. The real estate is so situated that it cannot be sold in parcels without injury to the interest of the parties, and a sale of the whole will be more beneficial to the parties hereto.
6. Notice of the pendency of this action was duly given on August 21, 2015, after the filing of the Complaint herein, by filing a Notice of Lis Pendens in the office of the Register of Deeds for Rusk County, Wisconsin. This was done in the manner and

form required by law, after the filing of the complaint herein, and more than twenty (20) days prior to the trial or other resolution of this action.

7. The following Defendants have not served an Answer or other response in this matter, and the Clerk of Court has duly entered the default of each Defendant:

Daryl E. High
 Glenda R. High
 Rhoda Knight
 Gary Radtke
 Swiderski Equipment, Inc.
 Ladysmith Federal Savings & Loan
 Philip Ostrowski
 Rusk County Clerk Of Courts
 Kuc's Implement
 Cloverbelt Lumber & Feed Company, Inc,
 Food Mill
 Agstar Financial Services
 Northern Central Power, Co.
 Indianhead Telephone Co.

8. The United States and K&K Agronomy LLC, have entered a Stipulation regarding real estate mortgage priorities and entry of judgment. Stip., ECF No. 25.

9. Based upon the stipulation of Plaintiff and Defendant K&K Agronomy, LLC, a judgment of foreclosure should be entered in this matter reflecting that Plaintiff United States has a superior lien interest in the real property by virtue of the Mortgages executed to the United States by Defendants Daryl and Glenda High on June 7, 2007, October 23, 2008, and March 12, 2009.

10. Based upon the stipulation of Plaintiff and Defendant K&K Agronomy, LLC, the judgment of foreclosure entered in this matter should further reflect that Defendant K&K Agronomy, LLC, has a lien interest by virtue of a judgment docketed

against Defendant Daryl High on April 4, 2013, in Rusk County Circuit Court Case No. 2013-SC-59.

11. Based upon the Complaint and the Stipulation between the United States and Defendant K&K Agronomy LLC, no Defendant holds a prior lien interest in the property more particularly described as:

The North One-Half of the Northeast Quarter of Section 14,
Township 33 North, Range 5 West, Town of Marshall, Rusk
County, Wisconsin.

CONCLUSIONS OF LAW

1. Plaintiff is entitled to judgment of foreclosure and sale of the mortgaged premises in the usual form, as requested in Plaintiff's Complaint, and in accordance with the above Findings of Fact.

2. Plaintiff is entitled to recover from the Defendants the following sum: See Attachment A.

3. The Defendants subsequent to the filing of the notice of the pendency of this action be and hereby are forever barred and foreclosed of all right, title, interest, claim and equity of redemption in the mortgaged premises.

4. The mortgaged premises shall be sold as a whole.

5. That if necessary to secure possession of the premises, the Clerk of Court, upon application by Plaintiff, shall issue a Writ of Assistance.

6. The Defendants shall not be granted a right of redemption.

7. Sale of the premises shall be conducted by or under the direction of the United States Marshal for the Western District of Wisconsin. Notice of the sale shall be

made by publication in The Ladysmith News, the newspaper published in the City of Ladysmith, Rusk County, Wisconsin.

8. Proceeds from the sale of the subject premises shall be paid first to satisfy Defendant's debt to the United States as set forth in Attachment A, plus necessary costs and disbursements.

9. Any remaining proceeds from the sale of the subject premises shall be subject to further order of the Court, including payment to satisfy any lien interests of Defendants, including Defendant K&K Agronomy LLC's docketed lien interest.

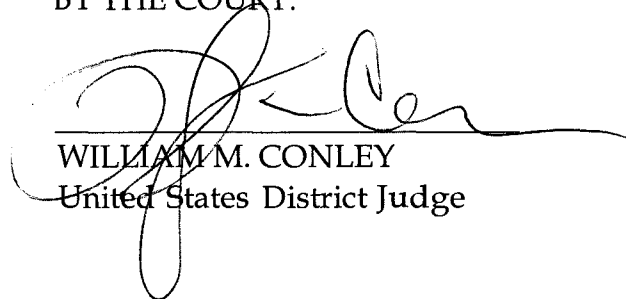
10. Deficiency judgment is not being sought in this action.

Now, on application of Plaintiff United States of America,

IT IS THEREFORE ORDERED that foreclosure of said mortgage in the usual form as provided by and in accordance with the above Findings of Fact and Conclusions of Law be entered in this action.

Dated this 10th day of February, 2016.

BY THE COURT:



WILLIAM M. CONLEY
United States District Judge

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ATTACHMENT A

Notes and Mortgages

a.	Principal as of February 10, 2016	\$ 364,223.77
b.	Interest as of February 10, 2016	<u>\$ 34,700.95</u>
	Total as of February 10, 2016	<u>\$ 398,924.72</u>

Costs and Disbursements

c.	Filing of Notice of Lis Pendens	<u>\$ 30.00</u>
	Total Costs & Disbursements	<u>\$ 30.00</u>

TOTAL AS OF FEBRUARY 10, 2016 **\$398,954.72**