

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

UNITED STATES OF AMERICA,	)	
	)	Case No. 17-cv-120 (WMC)
Plaintiff,	)	
	)	
v.	)	
	)	
(1) JAMES C. MAYEK,	)	
(2) JUDITH A. MAYEK,	)	
(3) WISCONSIN DEPARTMENT OF	)	
WORKFORCE DEVELOPMENT,	)	
(4) WISCONSIN DEPARTMENT OF	)	
REVENUE,	)	
(5) DISCOVER BANK, and	)	
(6) PORTAGE COUNTY TREASURER'S	)	
OFFICE,	)	
	)	
Defendants.	)	
	)	

~~Proposed~~ **ORDER OF SALE**

This Court entered a final judgment in this action on July 19, 2017, (Docket No. 21) in the amounts of \$258,171.94 and \$259,434.89, plus interest, in favor of the Plaintiff United States of America, and against each of the Defendants, James C. Mayek and Judith A. Mayek, respectively, for unpaid 26 U.S.C. § 6672 civil penalty liabilities. The judgment provides that the federal tax liens associated with those liabilities be enforced by a judicial sale of James and Judith Mayek's real property, located at 3157 Woods Road, Junction City, Portage County, Wisconsin 54443 (the "Woods Road Property"). The property consists of three parcels, with the following legal descriptions:

Parcel 1:  
The Northwest (NW1/4) Quarter of the Southeast (SE1/4) Quarter of Section No. Eighteen (18), Township No. Twenty-four (24) North, Range No. Seven (7) East, together with all improvements thereon situated.

Parcel 2:

The Northeast Quarter of the Southwest Quarter of Section 18, Township 24 North, Range 7 East.

Parcel 3:

The North one-half of the West one-half of the Southwest Fractional Quarter, Section 18, Township 24 North, Range 7 East, EXCEPT the North 10 acres thereof, and EXCEPT that part conveyed to Archie R. Olds and wife by deed recorded in Book 232 of Deeds, page 12, and further EXCEPTING the South 208.71 feet of the North 668.71 feet thereof.

The Court now ORDERS that the Woods Road Property shall be sold under 26 U.S.C. § 7403(c) and 28 U.S.C. §§ 2001 and 2002 in order to collect James and Judith Mayek's civil penalty liabilities as follows:

1. The Internal Revenue Service ("IRS") Property Appraisal and Liquidation Specialists ("PALS") are authorized to offer for public sale and to sell the Woods Road Property.
2. The terms and conditions of the sale of the Woods Road Property are as follows:
  - a. The sale of the Woods Road Property shall be by public auction to the highest bidder, free and clear of all rights, titles, claims, liens, and interests of all parties to this action, including the Plaintiff United States and the Defendants James C. Mayek, Judith A. Mayek, Wisconsin Department of Workforce Development ("WDWD"), Wisconsin Department of Revenue ("WDOR"), Discover Bank, and Portage County Treasurer's Office, and any predecessors or successors in interest or transferees of those parties. Additionally, the sale of the Woods Road Property shall be free and clear of all rights, titles, claims, liens, and interests of Wisconsin Public Service, with the exception of any utility easements. The Woods Road Property will be sold subject to any utility easements held by Wisconsin Public Service.

- b. The sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Woods Road Property, and easements, restrictions, and reservations of record, if any.
- c. The sale of the Woods Road Property shall be held either: (1) at the courthouse of the county or city in which the Woods Road Property is located; or (2) on the Woods Road Property.
- d. PALS shall announce the date and time for sale.
- e. The IRS PALS and their representatives shall be permitted to enter the Woods Road Property with prospective buyers in order to allow prospective buyers to inspect the interior and exterior of the Woods Road Property at such times as the IRS PALS shall determine are reasonable and convenient.
- f. Notice of the sale of the Woods Road Property 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 Portage County, Wisconsin and, at the discretion of the PALS, by any other notice or advertisement that the PALS deems appropriate. The notice of the sale shall contain a description of the Woods Road Property and shall contain the material terms and conditions of sale set forth in this order of sale.
- g. The Woods Road Property shall be offered for sale “as is,” with all faults and without any warranties either express or implied, and the sale shall be made without any right of redemption.

- h. The PALS shall set, and may adjust, the minimum bid. If the minimum bid is not met or exceeded, the 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 adjust the minimum bid.
- i. At the time of the sale, the successful bidder(s) shall deposit with the PALS, by money order, certified check, or cashier's check made payable to the Clerk of the United States District Court for the Western District of Wisconsin, between five (5) and twenty (20) percent of the minimum bid as specified by the PALS in the published notice of sale. The money order or certified or cashier's check shall be deposited with the Clerk of this Court. Before being permitted to bid at the sale, potential bidders shall display to the PALS proof that they are able to comply with this requirement. No bids will be accepted from any person(s) who have not presented proof that, if they are the successful bidders(s), they can make the deposit required by this order of sale. The United States may bid as a creditor against its judgment without any tender of cash or check.
- j. The successful bidder(s) shall pay the balance of the purchase price for the Woods Road Property within forty-five (45) days following the date of the sale. The money order, certified check, or cashier's check shall be made payable to the Clerk of the United States District Court for the Western District of Wisconsin and shall be given to PALS who will deposit the funds with the Clerk of this Court. If the bidder fails to fulfill this requirement, the sale shall be treated as null and void, and the deposit shall be forfeited as damages and applied to cover the expenses of the sale, with any amount remaining to be applied to the judgment for

the federal tax liabilities entered in this case. The Clerk shall distribute the deposit as directed by the PALS by check drawn payable to the "United States Treasury."

The Woods Road Property shall be again offered for sale under the terms and conditions of this order of sale or, in the alternative, sold to the second highest bidder. The successful bidder(s) at the new sale or second highest bidder, as the case may be, shall receive the Woods Road Property free and clear of all rights, titles, claims, liens, and interests of the defaulting bidder(s).

- k. The Clerk of the Court is directed to accept the deposits and proceeds of the sale and deposit them into the Court's registry for distribution as provided for herein or pursuant to further order of this Court.
- l. The sale of the Woods Road Property shall be subject to confirmation by this Court. On confirmation of the sale, ownership and possession of the Woods Road Property shall transfer to the successful bidder(s), and all interests in, liens against, and titles and claims to, the Woods Road Property that are held or asserted by the parties to this action (and their predecessors and successors) are discharged and extinguished.
- m. After the confirmation of the sale, the IRS shall execute and deliver a deed under the authority of this Court conveying the Woods Road Property, effective as of the date of the confirmation of the sale, to the successful bidder(s). After this Court confirms the sale and the Recording Official for Portage County receives the deed from the successful bidder, the Recording Official of Portage County shall cause the transfer of the Woods Road Property to be reflected upon that county's register of title.

n. The successful bidder(s) shall pay, in addition to the amount of the bid, any documentary stamps and registry fees as provided by law.

3. Up until the date that this Court confirms the sale of the Woods Road Property, James C. Mayek and Judith A. Mayek shall take all reasonable steps necessary to preserve the Woods Road Property (including all buildings, improvements, fixtures and appurtenances on the Woods Road Property) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the Woods Road Property, and James C. Mayek and Judith A. Mayek, and all occupants of the Woods Road Property, shall neither commit waste against the Woods Road Property nor cause or permit anyone else to do so. James C. Mayek and Judith A. Mayek shall neither do anything that tends to reduce the value or marketability of the Woods Road Property nor cause or permit anyone else to do so. James C. Mayek and Judith A. Mayek shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements, posting signs, or making internet postings) that may directly or indirectly tend to adversely affect the value of the Woods Road 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. If any of the Woods Road Property is destroyed before its sale, and James C. Mayek and Judith A. Mayek are entitled to insurance proceeds, the insurance proceeds shall be paid into the registry of this Court. Violation of this paragraph shall be deemed a contempt of court and punishable as such.

4. Unless otherwise agreed by the United States, James C. Mayek and Judith A. Mayek and any other persons or businesses occupying the Woods Road Property shall vacate the property permanently sixty (60) days after the date of this Order of Sale, each taking his, her, or its personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the

Woods Road Property). If any person or business fails or refuses to vacate the Woods Road Property by the date specified in this order of sale, PALS is authorized to coordinate with the United States Marshal to take all actions that are reasonably necessary to have those persons or businesses ejected. The U.S. Marshals Service is authorized to and directed to take any and all necessary actions, including the use of reasonable force, to enter and remain on the premises, which includes, but is not limited to, the land, the buildings, vehicles, and any structures located thereon, for the purpose of executing this Order. The United States Marshals Service is further authorized and directed to arrest and/or evict from the premises any and all persons who obstruct, attempt to obstruct, or interfere or attempt to interfere, in any way with the execution of this Order. Any personal property remaining on the Woods Road Property sixty (60) days before the public auction is deemed forfeited and abandoned, and PALS is authorized to 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 costs and expenses of sale and the balance shall be paid into the Court for further distribution. Money orders and checks for the purchase of the personal property shall be made payable to the Clerk of the United States District Court for the Western District of Wisconsin and the Clerk of the Court is directed to accept checks and deposit such items into the Court's registry for distribution pursuant to further order of this Court. This order of sale shall also serve as a Writ of Assistance or Writ of Possession, as appropriate, and no further order from the Court shall be required for these purposes.

5. Upon vacating the Woods Road Property, James C. Mayek and Judith A. Mayek shall furnish a forwarding address to the United States. The forwarding address may be either emailed to [Jordan.Howlette@usdoj.gov](mailto:Jordan.Howlette@usdoj.gov) or mailed to:

Jordan D. Howlette  
Trial Attorney, Tax Division, U.S. Department of Justice  
P.O. Box 7238, Benjamin Franklin Station  
Washington, D.C. 20044

6. Up until the date that this Court confirms the sale of the Woods Road Property, the IRS, PALS, and their representatives are authorized to have free and full access to the Woods Road Property in order to take any and all actions necessary to preserve the Woods Road 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 Woods Road Property.

7. After the Court confirms the sale of the Woods Road Property, the sale proceeds deposited with the Clerk of this Court should be applied to the following items, in the order specified below:

- a. First, to PALS, and payable to the United States Treasury, for the costs and expenses of the sale, including any costs and expenses incurred to secure or maintain the Woods Road Property pending sale and confirmation by the Court.
- b. Second, to Portage County Treasurer's Office or other local taxing authority for real property taxes and other local assessments that may be due and owing which are entitled to priority under 26 U.S.C. § 6323(b)(6).
- c. Third, to the United States and the Wisconsin Department of Revenue for payment of federal and state tax debts owed to the respective entities, in the order of priority, as determined by the date of assessment, set forth below:

<b>Creditor</b>	<b>Tax Ending Period</b>	<b>Date of Assessment</b>
United States	Dec. 31, 2006	Sept. 12, 2012
United States	Dec. 31, 2007	Sept. 12, 2012
United States	June 30, 2008	Sept. 12, 2012
United States	Sept. 30, 2008	Sept. 12, 2012
United States	Dec. 31, 2008	Sept. 12, 2012
United States	Mar. 31, 2009	Sept. 12, 2012

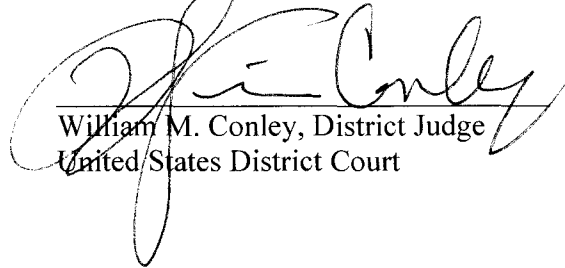


United States	June 30, 2009	Sept. 12, 2012
United States	Sept. 30, 2009	Sept. 12, 2012
United States	Dec. 31, 2009	Sept. 12, 2012
United States	Mar. 31, 2010	Sept. 12, 2012
United States	June 30, 2010	Sept. 12, 2012
United States	Sept. 30, 2010	Sept. 12, 2012
United States	Dec. 31, 2010	Sept. 12, 2012
WDR	Dec. 31, 2011	Sept. 24, 2012
WDR	Dec. 31, 2012	Nov. 25, 2014
WDR	Dec. 31, 2013	Feb. 2, 2015
United States	Dec. 31, 2012	Feb. 23, 2015
United States	Mar. 31, 2013	Feb. 23, 2015
United States	June 30, 2013	Feb. 23, 2015
United States	Sept. 30, 2013	Feb. 23, 2015
United States	Dec. 31, 2013	Feb. 23, 2015
United States	Mar. 31, 2014	Dec. 14, 2015
United States	June 30, 2014	Dec. 14, 2015
United States	Sept. 30, 2014	Dec. 14, 2015
WDR	Dec. 31, 2014	Mar. 16, 2016
WDR	Various (withholding)	Mar. 28, 2016

d. Fourth, any further remaining sale proceeds shall be held in the Court's registry pending further order of the Court.

**SO ORDERED** this 19<sup>th</sup> day of July, 2017.

**BY THE COURT:**



William M. Conley, District Judge  
United States District Court

