

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

UNITED STATES OF AMERICA,	)	
	)	Case No. 2:22-cv-02703-DCN
Plaintiff,	)	
	)	
v.	)	
	)	
GARRETT A. MATHIESON,	)	
DORIS K. MATHIESON, and	)	
CHRISTINE MATHIESON,	)	
	)	
Defendants.	)	
_____	)	

ORDER OF FORECLOSURE AND SALE

The Court entered default judgment in this action on March 16, 2023 in favor of the United States. The Court held that Garrett A. Mathieson’s transfer of an interest in the property located at 4259 Mariners Watch Drive, Johns Island, SC (the “Property”) was void with respect to the United States, and the federal tax liens are valid and attach to Garrett Mathieson’s interest in the Property. *Id.* In granting the United States’ Motion for Default, this Court further authorized the United States to sell the Property, and that the proceeds be applied to Defendant Garrett Mathieson’s tax liabilities. *Id.* The legal description of the Property is:

ALL that certain apartment known as Villa Number 4259 in Mariners Watch Villas Horizontal Property Regime, together with the fixtures, furnishings and furniture, as shown on the plans and specifications attached to that certain Master Deed executed by Kiawah Island Company Limited dated January 31, 1981 and recorded February 4, 1981, in Book P124, page 95, in the R.M.C. Office for Charleston County, S.C.

BEING the same property conveyed unto Garrett A. Mathieson and Doris K. Mathieson by deed dated September 25, 2009 and recorded on October 5, 2009 in RB 0085 at page 151, records of the RMC for Charleston County, South Carolina.

Tax Map Number: 209-06-00153.

The Court now **ORDERS** that the Property be sold pursuant to 26 U.S.C. §§ 7402(a), 7403.

It is hereby further **ORDERED**:

1. The Internal Revenue Service Property Appraisal and Liquidation Specialists (“PALS”) is authorized to offer for public sale and to sell the Property.

2. **Terms and Conditions:** The terms and conditions of the sale are as follows:

a. The sale shall be 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, and any successors in interest or transferees of those parties.

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.

Sale location

c. The sale of the Property shall be by public auction under mail-in bid or via in-person auction to the highest bidder. If conducted in-person, the sale of the Property shall be held either on the Property’s premises or the U.S. District Courthouse located at 85 Broad Street, Charleston, South Carolina 29401.

Notice of Sale

d. The PALS shall announce the date and time for the sale.

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 Charleston County, and by any other notice PALS deems appropriate. The notice shall contain an adequate description of the Property, but need not contain the full legal description, and shall contain the terms and conditions of sale set forth in this Order of Sale.

Minimum Bid

f. 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 of this Order of Sale, hold a new public sale, and may reduce the minimum bid.

Payment of Deposit and Balance

g. At the time of the sale, the successful bidder(s) shall deposit with the PALS, by money order or by certified or cashier's check payable to the "United States District Court for the District of South Carolina," a deposit in an amount between five (5) and twenty (20) percent of the minimum bid, as specified by the PALS in the published notice of sale. Before being permitted to bid at the sale, potential bidders shall show 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 bidder(s), 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 within forty-five (45) days following the date of the sale. The certified or cashier's check payable to the United States District Court for the District of South Carolina 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 deposit shall be forfeited and shall be applied to cover the expenses of the sale, with any amount remaining to be applied to the liabilities of Garrett Mathieson at issue herein. The 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, at the sole discretion of the United States.

i. The Clerk of the District Court is directed to accept the deposit and sale proceeds and deposit them into the Court's registry for distribution pursuant to further order of this Court.

Confirmation of Sale

j. The sale of the Property shall be subject to confirmation by this Court. On confirmation of the sale, ownership and possession of the Property shall transfer to the successful bidder(s), and all interests in, liens against, and titles and claims to, the Property that are held or asserted by the parties to this action are discharged and extinguished. When this Court confirms the sale, the Recording Official of Charleston County, South Carolina may cause the transfer of the Property to be reflected upon that County's Register of Title.

k. After confirmation of the sale, the IRS shall execute and deliver a deed under the authority of this Court conveying the Property, effective as of the date of the confirmation of the sale, to the successful bidder(s) or as designated in writing by the successful bidder(s). The successful bidder(s) shall pay, in addition to the amount of the bid, any documentary stamps and registry fees as provided by law.

l. All rights to rents of or from the Property arising after the final judgment in this action and before the confirmation of the sale of the Property shall constitute proceeds of the Property and such rents shall be turned over to, and paid to, the PALS for deposit and distribution in the same manner as the proceeds of the sale of the Property. On confirmation of the sale of the Property, all rights to product, offspring, rents, and profits of or from the Property arising thereafter shall transfer to the successful bidder(s) and all risks of losses associated with the Property shall transfer to the successful bidder(s).

Redemption

m. The sale of the Property is ordered pursuant to 26 U.S.C. § 7403 and is made without right of redemption.

3. **Preservation of the Property**: Until the Property is sold, the Defendants shall take all reasonable steps necessary to preserve the Property (including all buildings, improvements,

fixtures, and appurtenances on each property) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the Property. The Defendants shall neither commit waste against the Property, nor cause or permit anyone else to do so. The Defendants shall neither do anything that tends to reduce the value or marketability of the Property nor cause or permit anyone else to do so. The Defendants shall not record any instrument, 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 Property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall the Defendants cause or permit anyone else to do so. Violation of this paragraph shall be deemed contempt and shall be punishable as such.

4. **Vacating the Property:** All persons occupying the Property shall vacate the property permanently within thirty (30) days of the date of this Order of Sale, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the property). The United States may, in writing and in its sole discretion, extend the time to vacate.

If any person fails or refuses to vacate the Property by the date specified in this Order of Sale, or as extended by the United States, the PALS is authorized to coordinate with the United States Marshals Service to take all actions that are reasonably necessary to have those persons ejected or excluded. The United States Marshals Service is authorized and directed to take all necessary actions, including but not limited to the use of reasonable force, to enter and remain on the premises, which includes, but is not limited to, the land, buildings, vehicles, and any other structures located thereon, for the purpose of executing this Order of Sale. The United States Marshals Service is further authorized and directed to arrest or evict from the premises any persons

who obstruct, attempt to obstruct, or interfere or attempt to interfere, in any way with this Order of Sale.

5. **Abandoned Personal Property:** Any personal property remaining on the Property thirty (30) days after the date of this Order of Sale (or as extended in writing by the United States) is deemed forfeited and abandoned, and the PALS is authorized to dispose of it in any manner they see fit, including disposal or sale, in which case the proceeds of the sale are to be applied first to the expenses of sale and the balance to the parties as directed by the Court. Checks for the purchase of personal property shall be made out to the “Clerk of District Court for the District of South Carolina,” and the Clerk is directed to accept these checks and deposit them into the Court’s registry for distribution pursuant to further order of this Court.

6. **PALS’ Access to the Property:** Pending the sale of the Property, and until confirmation of sale, the IRS and PALS are authorized to have free and full access to the premises in order to take any and 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.

7. **Forwarding Address:** No later than two (2) business days after vacating the Property, pursuant to the deadline set forth in paragraph (4) above, the Defendants or an agent thereof shall notify counsel for the United States of a forwarding address where they can be reached. Notification shall be made by contacting the counsel for the United States, Daniel B. Causey, IV at (202) 307-1427 or daniel.b.causey@usdoj.gov.

8. **Claims and Distribution of Sale Proceeds:** After the Court confirms the sale of the Property, absent any showing to the contrary, the sale proceeds deposited with the Clerk of this Court shall be distributed in the following order of priority:

a. First, to PALS, for all costs and expenses incurred with respect to the sale of the Property. Any unpaid ad valorem real property taxes also shall be paid, to the local tax authority, as an expense of sale in accordance with 26 U.S.C. § 6323(b)(6);

b. Second, 50 percent of the net proceeds to the United States for the unpaid tax liabilities owed by Defendant Garrett Mathieson, totaling \$26,010,253.19 for 2004 through 2012, plus statutory additions including interest accruing after January 13, 2023;

c. Third, 37.5 percent of the net proceeds to Defendant Doris Mathieson for her interest in the Property; and

d. Fourth, 12.5 percent of the net proceeds to Defendant Christine Mathieson for the portion of her interest in the Property transferred from Doris Mathieson.

e. If there are any remaining proceeds after the distributions identified above, those proceeds should be held by the Clerk of this Court pending a determination by the Court as to the proper disposition of such proceeds.

AND IT IS SO ORDERED



David C. Norton
United States District Court Judge

April 12, 2023
Charleston, South Carolina