

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA

FILED  
MAR 17 2005  
1:32

UNITED STATES OF AMERICA )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil No. 03-223  
 )  
 HERMAN E. GREER, et al. )  
 )  
 Defendants. )

**DECREE OF SALE (1 ACRE)**

1. Federal Tax Liens attach to property consisting of approximately one acre,  
described as:

Being all of the certain 1.00 acre parcel shown on the survey by  
Woodrow W. Wilson, RLS, entitle, "Survey for Helen M.  
McKinney Property," dated 1/17/2003, designated Drawing  
Number T-1837, and recorded in Plat File 10, slide 205, in the  
Transylvania County Registry; along with a 45 foot right of way  
for ingress and egress, connecting the 1.00 acre parcel to U.S.  
Highway 64, as shown on the said plat.

The property is to be turned over to the Internal Revenue Service, Property  
Appraisal and Liquidation Specialist and sold in accordance with Title 28, United States  
Code, and the procedures of this Court.

2. All persons occupying or using the property shall leave and vacate the property  
permanently within 30 days of the date of this Decree, each taking with them his or her  
personal property (but leaving all improvements, buildings, fixtures, and appurtenances to  
the property).

3. If any person fails or refuses to leave and vacate the property within 30 days,

the Internal Revenue Service, Property Appraisal and Liquidation Specialist, in coordination with the United States Marshal's Service are authorized and directed to take all actions necessary to bring about the ejectment of those persons with no further orders or process from the Court required.

4. If any person fails or refuses to remove his or her personal property from the property by the time specified, the personal property remaining on the property is deemed forfeited and abandoned, and the Marshal and his deputies are authorized to remove it. The Property Appraisal and Liquidation Specialist shall dispose of it in any manner he sees fit, including sale, in which case the proceeds of the sale are to be applied first to the expenses of sale and the balance to be paid into the Court for further distribution.

5. The Internal Revenue Service, Property Appraisal and Liquidation Specialist, in coordination with U.S. Marshall for the Western District of North Carolina, or such representative as he may appoint or employ, is authorized and directed as the proper officer of this Court to offer the real property at public sale.

6. This judgment shall act as a special writ of execution and no further orders or process from the Court shall be required, and the Internal Revenue Service, Property Appraisal and Liquidation Specialist and the U.S. Marshall for the Western District of North Carolina shall have all rights and powers necessary to transfer good title.

7. The terms and conditions of such sale are:

A. The parcel of real property shall be sold at public sale.

B. The sale is free and clear of the liens or interests of all defendants and of the United States.

C. The sale shall be subject to all laws, ordinances, and governmental regulations affecting the premises, and all easements and restrictions of record.

D. The date and time of the sale is to be set by the Property Appraisal and Liquidation Specialist.

E. Notice of the sale shall be published once a week for at least four (4) consecutive weeks before each sale in at least one newspaper regularly issued and of general circulation in the county, state, or judicial district of the United States where the realty is situated and, at the discretion of the Internal Revenue Service, Property Appraisal and Liquidation Specialist, by any other notice that he or his representative deem appropriate. The notice shall contain a description of the realty and shall contain the terms and conditions of sale in this judgment and decree.

F. A minimum bid of \$5,000 is set for the property. If the minimum bid is not met or exceeded, the Property Appraisal Liquidation Specialist or his representative may, without permission of this Court, and under the terms and conditions in this judgment and decree, hold a new public sale with or without a reduction of the minimum bid.

G. The successful bidder on the real property shall be required to deposit with the Property Appraisal and Liquidation Specialist or his representative a minimum

of ten (10) per-cent of the bid, with the deposit to be made by certified check or cash. Before being permitted to bid at the sale, bidders shall display to the Internal Revenue Service, Property Appraisal and Liquidation Specialist, proof that they are able to comply with this requirement. No bids will be received from any person who has not presented proof that, if they are the successful bidder, they can make the deposit required by this judgment.

H. The balance of the purchase price for the realty is to be paid to the Internal Revenue Service, Property Appraisal and Liquidation Specialist within sixty (60) days after the date the bid is accepted by a certified or cashier's check payable to the United States Treasury. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and shall be applied to cover the expenses of the sale, including commissions due under 28 U.S.C. S 1921(c), with any amount remaining to be returned to the bidder, and the realty shall be again offered for sale under the terms and conditions of the judgment and decree. The United States may bid as a credit against its judgment without tender of cash.

I. The sale of the realty shall be subject to confirmation by this Court. On confirmation of the sale, the Internal Revenue Service, Property Appraisal and Liquidation Specialist shall execute and deliver a quit claim deed conveying the realty to the purchaser. On confirmation of the sale, all interests in, liens against, or claims to, the realty that are held or asserted by plaintiff or any of the defendants in this action are

discharged and extinguished.

8. Until vacating the property, Herman E. Greer shall take all reasonable steps necessary to preserve the realty (including all buildings, improvements, fixtures and appurtenances on the realty) in its current condition including, without limitation, maintaining fire and casualty insurance policies on the realty. He shall continue to manage the realty and collect rents and pay expenses of the realty. He shall not commit waste against the realty, nor shall he cause or permit anyone else to do so. He shall not do anything that tends to reduce the value or marketability of the realty, nor shall he cause or permit anyone else to do so.

9. The defendants shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements) that may directly or indirectly tend to adversely affect the value of the realty or that may tend to deter or discourage potential bidders from participating in the public auction.

10. After the sale is confirmed by this Court, the Property Appraisal and Liquidation Specialist shall distribute the amounts paid by the purchaser as follows:

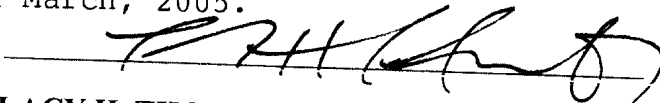
A. First, the Internal Revenue Service, Property Appraisal and Liquidation Specialist shall retain an amount sufficient to cover the expenses of each sale, including commissions under 28 U.S.C., Sec. 1921, and including any amount sufficient to cover the expense of maintaining the realty pending sale and confirmation.

B. Second, Transylvania County for any real property assessments due.

C. Third, the United States of America, payable to the Internal Revenue Service, for the tax liabilities of Herman E. Greer, as evidenced by the judgment entered against defendants in this action.

D. Fourth, the State of North Carolina for income tax liens filed against the property.

THIS the 17<sup>th</sup> day of March, 2005.



**LACY H. THORNBURG**  
**UNITED STATES DISTRICT COURT JUDGE**

Copies to:

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Fountain Inn, SC 29644

United States District Court  
for the  
Western District of North Carolina  
March 17, 2005

jhg

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 1:03-cv-00223

True and correct copies of the attached were mailed by the clerk to the following:

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Ben Franklin Station

cc:  
Judge (✓)  
Magistrate Judge ( )  
U.S. Marshal ( )  
Probation ( )  
U.S. Attorney ( )  
Atty. for Deft. ( )  
Defendant ( )  
Warden ( )  
Bureau of Prisons ( )  
Court Reporter ( )  
Courtroom Deputy ( )  
Orig-Security ( )  
Bankruptcy Clerk's Ofc. ( )  
Other \_\_\_\_\_ ( )

Date: March 17 2005

Frank G. Johns, Clerk

By: J. Howell  
Deputy Clerk