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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN L. CABRAL, JANET M. CABRAL,
STATE OF CALIFORNIA
FRANCHISE TAX BOARD, STATE OF
CALIFORNIA EMPLOYMENT
DEVELOPMENT DEPARTMENT,
SAN JOAQUIN VALLEY HAY
GROWERS ASSOCIATION, C. L.
BRYANT, INC., DISCOVER BANK,
NATIONAL CREDIT ACCEPTANCE,
INC., COUNTY OF MERCED, DCSS

Defendants.

Civil No. 1:07-CV-1741 OWW DLB

AMENDED ORDER OF JUDICIAL SALE

A final judgment was entered by this Court in the above-entitled action, on July 1, 2009, (docket no. 102), ordering that the United States' federal tax liens be foreclosed and that the subject property, described below, be sold pursuant to 28 U.S.C. § 2001. This Order amends and supercedes the Order of Judicial Sale entered on October 5,

2009 [Rec. Doc. 105].

The subject property is located at 3500 South Walnut Road and 3509 Soderquist Road, Turlock, California (Stanislaus County), and is more particularly described as follows:

The north 660 feet of the south 1230 feet of the following two parcels:

PARCEL NO. 1.

BEGINNING AT THE NORTHWEST CORNER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 10 EAST MOUNT DIABLO BASE AND MERIDIAN; THENCE SOUTH 1° 30' EAST 16.5 FEET; THENCE NORTH 89° EAST 16.5 FEET TO POINT OF BEGINNING; THENCE NORTH 89° EAST 814.5 FEET ALONG RIGHT OF WAY OF LATERAL CANAL NO. 5 OF TURLOCK IRRIGATION DISTRICT; THENCE SOUTH 86° EAST 100 FEET ALONG SAID RIGHT OF WAY; THENCE SOUTH 78° 30' EAST 200 FEET ALONG SAID RIGHT OF WAY; THENCE SOUTH 82° 30' EAST 200 FEET ALONG SAID RIGHT OF WAY; THENCE SOUTH 1° 15' EAST 598.5 FEET; THENCE SOUTH 88° 30' WEST 1305 FEET TO A POINT 16-1/2 FEET EAST OF THE SECTION LINE BETWEEN SAID SECTIONS 33 AND 34; THENCE NORTH 1° 30' WEST 688.5 FEET TO POINT OF BEGINNING.

PARCEL NO. 2.

BEGINNING AT THE NORTHWEST CORNER OF SECTION 34, TOWNSHIP 5 SOUTH, RANGE 10 EAST MOUNT DIABLO BASE AND MERIDIAN; THENCE SOUTH 1° 16' EAST 705 FEET; ON SECTION LINE BETWEEN SECTIONS 33 AND 34, TOWNSHIP 5 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN; THENCE NORTH 89° 00' EAST 16-1/2 FEET AS POINT OF BEGINNING; THENCE NORTH 89° 00' EAST 1305 FEET; THENCE SOUTH 1° 15' EAST 1277.7 FEET; THENCE SOUTH 89° 00' WEST 1304.8 FEET TO POINT 16-1/2 FEET EAST OF SECTION LINE BETWEEN SAID SECTION 33 AND 34, THENCE NORTH 1° 16' WEST PARALLEL WITH SAID SECTION LINE 1277.7 FEET TO POINT OF BEGINNING.

A.P.N. 044-045-056

(Hereinafter the "Property.")

Accordingly, it is **ORDERED** as follows:

1. The United States Marshal for the Eastern District of California, his or her representative, or an Internal Revenue Service Property Appraisal and Liquidation Specialist ("PALS"), (hereinafter reference to the Marshall or PALS shall also refer to his

or her agents, officers, and representatives) is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell the Property. The United States may choose either the United States Marshal or a PALS to carry out the sale under this Order and shall make the arrangements for any sale as set forth in this Order.

2. The Marshal or PALS is authorized to have free access to the Property and to take 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, until the deed to the Property is delivered to the ultimate purchaser.

3. The terms and conditions of the sale are as follows:

a. the

Department, San Joaquin Valley Hay

Growers Association, C. L. Bryant, Inc., Discover Bank, National Credit Acceptance, Inc., County of Merced, DCSS,

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;

c. the sale shall be held at the courthouse of the county or city in which the Property is located, on the Property's premises, or at any other place in accordance with the provisions of 28 U.S.C. §§ 2001 and 2002;

d. the date and time for sale are to be announced by the United States Marshal or the PALS;

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 Stanislaus County, and, at the discretion of the Marshal or the PALS, by any other notice deemed appropriate. The notice shall contain a description of the property and shall contain the terms and conditions of sale in this order of sale;

f. The minimum bid will be set by the Internal Revenue Service. If the minimum bid is not met or exceeded, the Marshal or 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 reduce the minimum bid or sell to the second highest bidder;

g. the successful bidder(s) shall be required to deposit at the time of the same with the Marshal or the PALS a minimum of ten percent of the bid, with the deposit to be made by certified or cashier's check payable to the United States District Court for the Eastern District of California.

Before being permitted to bid at the sale, bidders shall display to the Marshal or the PALS proof that they are able to comply with this requirement. No bids will be received 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;

h. the balance of the purchase price for the Property is to be paid to the United States Marshall or a PALS (whichever person is conducting the sale) within 20 days after the date the bid is accepted, by a certified or cashier's check payable to the "U.S. District Court for the Eastern District of California". 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. § 1921(c), with any amount

remaining to be applied to the income tax liabilities of John Cabral and Janet M. Cabral at issue herein. The Property shall be again offered for sale under the terms and conditions of this order of sale. The United States may bid as a credit against its judgment without tender of cash;

i. the sale of the Property shall be subject to confirmation by this Court.

The Marshal or a PALS shall file a report of sale with the Court, together with a proposed order of confirmation of sale and proposed deed, within 20 days from the date of receipt of the balance of the purchase price;

j. on confirmation of the sale, the Marshal or PALS shall execute and deliver a deed of judicial sale conveying the property to the purchaser;

k. on confirmation of the sale, all interests in, liens against, or claims to, the Property that are held or asserted by all parties to this action are discharged and extinguished;

l. on confirmation of the sale, the recorder of deeds for Stanislaus County, California, shall cause transfer of the property to be reflected upon that county's register of title; and

m. the sale is ordered pursuant to 28 U.S.C. § 2001, and is made without right of redemption.

4. Until the property is sold, John Cabral and Janet M. Cabral shall take all reasonable steps necessary to preserve the property (including all buildings, improvements, fixtures and appurtenances on the property) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the property. They shall neither commit waste against the property nor cause or permit

anyone else to do so. They 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 instruments, publish any notice, or take any other action (such as running newspaper advertisements or posting signs) 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 they cause or permit anyone else to do so.

5. All persons occupying the property, including John Cabral, Janet M. Cabral, and any relatives, shall leave and vacate the property permanently within 10 days of the date of this Order, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the property). If any person fails or refuses to leave and vacate the property by the time specified in this Order, the United States Marshal's Office, alone, is authorized to take whatever action it deems appropriate to remove such person from the premises, including the use of reasonable force, whether or not the sale of such property is being conducted by a PALS. If any person fails or refuses to remove his or her personal property from the property by the time specified herein, the personal property remaining on the property thereafter is deemed forfeited and abandoned, and the United States Marshal's Office is authorized to remove it and to dispose of it in any manner it deems appropriate, 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.

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

1. To the United States Marshal or the PALS (whichever person conducted the sale as arranged by the United States) for the costs of the sale, including any expense of maintaining the Property prior to sale;

2. To all taxes unpaid and matured that are owed to Stanislaus County for real property taxes on the property;

3. To the United States, the California Franchise Tax Board, C.L. Bryant, Inc., San Joaquin Valley Hay Growers Association, and the California Employment Development Department (“the settling parties”) according to their stipulation as to the priority of their claims. The settling parties will submit a proposed order of distribution after the sale of the Cabral Ranch, in accord with paragraph 7 of the Judgment;

4. Any balance remaining after the above payments shall be held by the Clerk until further order of the Court.

IT IS SO ORDERED.

Dated: April 27, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE