

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 15-CV-324-GKF-TLW
REAL PROPERTY COMMONLY)	
KNOWN AS 7208 EAST 65TH)	
PLACE, TULSA, OKLAHOMA; et)	
al.,)	
)	
Defendants.)	

**MOTION FOR THE INTERLOCUTORY SALE OF
THREE PARCELS OF REAL PROPERTY**

The United States of America, by its counsel, moves pursuant to Supplemental Rule G(7) of the Federal Rules of Civil Procedure for the interlocutory sale of three parcels of real property named as defendants in rem in the instant civil forfeiture action. In support of its motion, the Government says the following.

I. FACTS

On December 17, 2014, a Grand Jury in the District of Kansas returned an Indictment charging Maureen Long, d/b/a Camelot Cancer Care, Inc., with 13 counts of wire fraud. (Exhibit __). Among other things, the Indictment alleged that the Defendant perpetrated a scheme to defraud persons seeking a cure for cancer by falsely representing that she would provide certain treatments and medications that were approved by the FDA and effective for the stated purpose when in fact the treatments and medications were neither FDA-approved nor effective.

Shortly after the return of the Indictment, the Defendant fled the United States and stopped paying the mortgages and taxes on three parcels of real property located in the Northern District of Oklahoma. She is now a fugitive from justice residing in Mexico. United States v. Monies, Funds and Financial Instruments, 14-MC-00008-JED-FHM, Dkt. # 8, Government's Report to Court of Effect of Indictment on Proceedings, filed April 17, 2015, at 2.

On January 22, 2016, the district court in the District of Kansas exercised its discretion and denied Defendant Long's motion for a change of venue to the Northern District of Oklahoma on the ground that the fugitive disentitlement doctrine bars a fugitive from filing such a motion without first surrendering to the jurisdiction of the court where the case is pending. United States v. Maureen Long, No. 14-40151-01-DDC, Dkt # 14 (D. Kan. Jan 22 2016) (Exhibit __).

On June 8, 2015, the Government filed the instant civil forfeiture action against the three parcels of real property, alleging in each case that the property was subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) as the proceeds of the wire fraud offense alleged in the Kansas Indictment, and pursuant to 18 U.S.C. § 981(a)(1)(A) as property involved in money laundering. Specifically, the Complaint alleges that Defendant invested a total of more than \$650,000 in fraud proceeds in the defendant parcels.¹

The three parcels are commonly known as 10711 S. Sheridan Road, Tulsa, OK ("Sheridan Road"), 10716 S. 66th E. Ave., Tulsa, OK ("South 66th"), and 7608 East 65th

¹ The Complaint alleges that Defendant invested \$184,787 in East 65th, \$268,048 in Sheridan Road, and \$204,552 in South 66th. Affidavit of Richard Holden incorporated into the Verified Complaint at 25, 28 and 29.

Place, Tulsa, OK (“East 65th”). On or about August 29, 2015, Defendant and an entity known as The Camelot Trust filed Verified Claims to Sheridan Road and South 66th, and John and Heather Lyons filed a Verified Claim to East 65th.

Sheridan Road is a vacant tract of land adjacent to South 66th, which is Defendant’s former residence. The property is currently occupied by four personal associates of the Defendant who are not paying rent to anyone. Affidavit of Richard Holden (Exhibit ____).

At the time of her indictment, Defendant owed a total of more than \$926,774 to the First National Bank and Trust Company of Broken Arrow (“First National”) secured by liens on the two parcels. Final Journal Entry of Judgment dated June 11, 2015 (Exhibit ____). She has made no payments on the mortgage notes since October 28, 2014, and she did not make any payment on the property taxes when they came due.

East 65th is the residence of John and Heather Lyons, the daughter and son-in-law of Defendant. At the time of her indictment, Defendant owed First National \$87,527 secured by a lien on the property. Final Journal Entry of Judgment dated October 12, 2015 (Exhibit ____). She has made no payments on the mortgage note since October 28, 2014, and she did not make any payment on the property taxes when they came due.

When Defendant ceased to make her mortgage payments, First National commenced foreclosure actions against all three parcels in the District Court of Tulsa County. On June 11, 2015, the state court issued a Judgment in favor of First National with respect to Sheridan Road and South 66th (Exhibit ____), and on October 14, 2015, it issued a Judgment in favor of First National with respect to East 65th (Exhibit ____). The

judgments authorized First National to sell the mortgaged property to satisfy all outstanding debts including the unpaid principal on the mortgage notes, the taxes that First National paid to Treasurer of Tulsa County on Defendant's behalf, and certain costs and attorney's fees. Id.

Instead of executing its judgments, First National entered into two Expedited Settlement Agreements with the United States whereby First National agreed not to attempt to sell any of the parcels in return for the Government's promise to seek the interlocutory sale of the defendant property pursuant to Rule G(7) in the instant case. The Government further agreed that if the court approved the interlocutory sale and the property was liquidated, it would pay First National the outstanding balance on the mortgage notes, all unpaid interest on the notes (at the contract rate), an amount equal to all taxes that First National has paid and will pay on the properties, and certain costs and fees. Any excess remaining from the proceeds of the interlocutory sale would be held in escrow subject to the final determination of the merits of the pending forfeiture case.

On January 5, 2016, the Government filed copies of both Expedited Settlement Agreements in the instant case. Expedited Settlement Agreement for 10711 South Sheridan Road and 10716 South 66th East Ave (Dkt. # 35), and Expedited Settlement Agreement for 7208 East 65th Place (Dkt. # 34).

As set forth in the Expedited Settlement Agreements, the Government is liable to pay First National \$53,260 in interest already accrued on the Sheridan Road and South 66th mortgages as of December 3, 2015, plus additional interest accruing at a rate of \$129 per diem until the property is sold and the notes are satisfied. Dkt. # 35 at 2-3. In

addition, the Government is liable to pay First National \$4,626 in interest already accrued on the East 65th mortgage as of December 3, 2015, plus additional interest accruing at a rate of \$11.86 per diem until the note is paid. Dkt. # 34 at 2.

The interlocutory sale will allow the Government to limit its liability for the accruing interest and taxes by reducing the property to cash and paying off the loans much earlier than would be the case if it could not liquidate the property until the forfeiture action was resolved on the merits.² First National has agreed to join the Government in moving for the interlocutory sale. Dkt. # 35 at 4; Dkt. # 34 at 3.

II. DISCUSSION

The Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions govern the procedure in civil forfeiture actions arising under a federal statute. Supp. Rule G(1).

Rule G(7)(b)(i) provides that the court may order all or part of the defendant property sold if:

- (A) The property is perishable or at risk of deterioration, decay, or injury by being detained in custody pending the forfeiture action
- ;
- (B) The expense of keeping the property is excessive or is disproportionate to its fair market value;

² Paragraph 12 of each of the Expedited Settlement Agreements provides that the Government will make the enumerated payments to First National when the property is sold via interlocutory sale or at the conclusion of the pending civil forfeiture action, if the Government prevails. Due to a drafting error, the word “or” was omitted from Paragraph 12 of the Sheridan Road and South 66th Agreement. Compare Paragraph 12 of Dkt. # 34 with Paragraph 12 of Dkt. # 35. In both cases, the intent of the Agreement was to permit the Government to pay off the loans as soon as the property is sold via interlocutory sale, and not to require First National to wait until the forfeiture action is resolved.

- (C) The property is subject to a mortgage or to taxes on which the owner is in default; or
- (D) The court finds other good cause.

These provisions are disjunctive; accordingly, the court may authorize the interlocutory sale upon finding that any one of the enumerated conditions is satisfied or there is other good cause. United States v. Real Property ... 4816 Chaffey Lane, 699 F.3d 956, 961-62 (6th Cir. 2012) (the grounds for approving an interlocutory sale under Rule G(7)(b)(i) are disjunctive; thus, it authorizes interlocutory sale of yacht on which claimant has stopped paying the mortgage).

The purpose of the interlocutory sale is to permit the Government to preserve the value of the defendant property by avoiding maintenance costs, the risk of damage or loss due to accident or deterioration, and reduction in the equity due to the accrual of interest charges and unpaid taxes. See United States v. Any and All Funds in UBS AG, ___ Fed. Appx. ___, 2016 WL 75305 (5th Cir. Jan. 6, 2016) (district court did not abuse its discretion in approving the interlocutory sale of an airplane that was depreciating and incurring excessive storage costs, even though the sale realized less than the parties assumed was its fair market value); United States v. Real Property ... 4816 Chaffey Lane, 2012 WL 1380239, *3 (E.D. Ky. Apr. 20, 2012) (interlocutory sale saves the Government the expense of maintaining the property, which it should not have to do when the owner has defaulted on his mortgage), aff'd No. 12-5175 (6th Cir. May 10, 2012).

In particular, courts have authorized interlocutory sales where the property owner has defaulted on the mortgage and the equity in the property is accordingly being reduced by the accrual of interest charges. See United States v. Real Property Located at 272 Old Montauk Highway, 298 F.R.D. 43, 51-53 (E.D.N.Y. 2014) (interlocutory sale is necessary to protect the equity in real property where the claimant has defaulted on the mortgage and additional interest is accruing daily). The same is true if the property owner has stopped paying the property taxes. United States v. All Right, Title and Interest in ... 479 Tamarind Dr., 2012 WL 3886698 (S.D.N.Y. Sept. 7, 2012) (Rule G(7) authorizes the interlocutory sale of real property if the owner is in default on his property taxes; the sale is necessary to prevent the taxing authority from acquiring a tax lien that would diminish the value of the property to the Government).

Moreover, in the case of property on which the property owner has ceased making mortgage payments and paying property taxes, the interlocutory sale preserves the equity in the property while causing the property owner no irreparable harm, given that the mortgagee and the taxing authority would have the right to foreclose and sell the property in any event. See United States v. Real Property ... 4816 Chaffey Lane, 699 F.3d at 961-62 (interlocutory sale of yacht on which claimant had stopped paying the mortgage preserves whatever equity claimant had in the property and thus does not diminish its value).

In this case, the Defendant has not made a payment on any of the mortgage notes secured by the three parcels since October, 2014, and has stopped making payments on the related property taxes. Thus, the requirements of Rule G(7)(b)(i)(C) are satisfied and

the court may order the interlocutory sale of the property for that reason alone. 4816 Chaffey Lane, 699 F.3d at 961-62.

Moreover, the equity in the three parcels, taken together, has already been reduced by more than \$58,000 in interest accrued as of December 3, 2015, and is being further reduced by more than \$140 per diem as interest payments continue to accrue at the contract rate. As the courts held in Chaffey Lane, Old Montauk Highway, and Tamarind Drive, the interlocutory sale of the property will permit the Government to preserve the value of the property by paying off the notes, eliminating the interest payments that are reducing the equity, and avoiding future liability to First National for the property taxes. It will also avoid maintenance costs and the risk that the property will be reduced in value by some accident, deterioration, or the acts of the current occupants who are associated with the Defendant and who have no incentive to preserve the Government's interest in the property. At the same time, the interlocutory sale will protect the Defendant's interest by preserving her equity in the property in an escrow account pending the resolution of the forfeiture action.

III. CONCLUSION

For all of these reasons, the court should authorize the Government to liquidate the three parcels of real property via an interlocutory sale in accordance with the procedures set forth in Rule G(7)(b).

RESPECTFULLY SUBMITTED,

DANNY C. WILLIAMS, SR.
UNITED STATES ATTORNEY

CATHERINE J. DEPEW, OBA #3836
Assistant United States Attorney
110 West Seventh Street, Suite 300
Tulsa, OK 74119
Telephone: 918.382.2700
Facsimile: 918.560.7939
Catherine.Depew@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on _____, the foregoing document was electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to counsel of record.

I hereby certify that on _____, the foregoing document was served by United States Mail, proper postage prepaid, on the following, who are not registered participants of the ECF System:

ROBERT P. SKEITH, OBA #16307
RIGGS ABNEY NEAL TURPEN ORBISON
& LEWIS
Attorney for The First National Bank and Trust
Company of Broken Arrow
502 West 6th Street
Tulsa, OK 74119
Telephone: 918.387.3161
Facsimile: 918.587.2150
rskeith@riggsabney.com

LINDA PEADEN
Paralegal Specialist