

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 06-2453-JWL/KGS

ROY E. UNGER, et al.,

Defendants.

**ORDER FOR DISTRIBUTION OF SALE PROCEEDS AND ESTABLISHING AMOUNT
OF DEFICIENCY JUDGMENT AGAINST DEFENDANT ROY E. UNGER**

Comes on for decision the Plaintiff's Motion for Order for Distribution of Sale Proceeds and Establishing Amount of Deficiency Judgment against Defendant Roy E. Unger (Doc. 32).

The United States appears by Eric F. Melgren, United States Attorney for the District of Kansas, and David D. Zimmerman, Assistant United States Attorney for the District. Defendant IA Operating, Inc., appears by counsel Joseph W. Jeter. There are no other appearances.

The Court, having examined the file and pleadings in this case, finds the following:

1. The proceedings of the United States Marshal under the Order of Sale are regular and in conformity with law and equity and the orders of this Court.

2. The real estate which was the subject of this foreclosure action is located in Decatur County, Kansas, to-wit:

The Southwest Quarter (SW/4) of Section Thirteen (13), The North Half of the Southeast Quarter (N/2SE/4) of Section Thirteen (13), and the Northwest Quarter (NW/4) of Section Twenty-Four (24), all in Township Three (3) South, Range Twenty-Nine (29) West of the 6th principal meridian, except that part of Tract 3 described as beginning at the Northwest corner thereof, thence East 600 feet, thence South 363 feet, thence West 600 feet, thence North 363 feet to the place of beginning; EXCEPT

(a) a tract of land in the Northwest Quarter of Section 24, Township 3 South, Range 29 West of the 6th P.M., described as follows: Beginning at a point of the West line, 363.0 feet South of the Northwest corner of said Quarter Section, said West line having an assumed bearing of North 02 degrees 19 minutes East; thence South 88 degrees 33 minutes East, 131.0 feet; thence South 01 degree 51 minutes West, 1,704.3 feet; thence South 09 degrees 26 minutes West, 454.1 feet; thence South 01 degree 51 minutes West to a point on the South line, 89.6 feet East of the Southwest corner of said Quarter section; thence North 88 degrees 54 minutes West along said South line to the West line of said Quarter Section; thence North 02 degrees 19 minutes East along said West line to the place of beginning, containing 2.80 acres, more or less, exclusive of the existing highway; and

(b) a tract of land in the Southwest Quarter of Section 13, Township 3 South, Range 29 West of the 6th P.M., described as follows: beginning at the Southwest corner of said Quarter Section, the West line of said Quarter Section having an assumed bearing of North 01 degree 31 minutes East; thence South 88 degrees 33 minutes East, 178.4 feet along the South line of said Quarter Section; thence North 01 degree 50 minutes East, 1,430.5 feet; thence North 88 degrees 29 minutes West, 64.6 feet; thence North 01 degree 51 minutes East, 852.3 feet; thence North 06 degrees 41 minutes West, 202.2 feet; thence North 04 degrees 43 minutes East to a point on the North line, 106.3 feet East of the Northwest corner of said Quarter Section; thence North 88 degrees 50 minutes West along said North line to the West Line of said Quarter Section; thence South 01 degree 31 minutes West along said West line to the place of beginning, containing 1.17 acres more or less, exclusive of the existing highway;

and SUBJECT TO: The taking of 7.8 acres on the West Boundaries of the above-described real property for highway purposes in Case No. 3507 in the District Court of Decatur County, Kansas.

3. Pursuant to the order of this Court (Doc. 25) the real estate was sold by the Office of the United States Marshal on January 4, 2008, to Gleason and/or Joyce Dryden, 608 N. Grand, Oberlin, Kansas, for the sum of \$201,000.00 and the funds have been received by the Clerk of the District Court, District of Kansas.

4. The bid was the highest and best bid received at the sale and the price is a fair and equitable price for the property.

5. The proceedings of the United States Marshal under the Order of Sale are regular and in conformity with law and equity and the orders of this Court and that sale was confirmed by this Court's order dated February 7, 2008 (Doc. 31).

6. There was due and owing the United States on January 4, 2008, the date of sale, the sum of \$212,851.79 plus \$350.00 for the filing fee.

7. The proceeds of the sale should be distributed as follows, in compliance with the Journal Entry of Default Judgment and Foreclosure and the Order of Sale of Real Estate:

a.	To: Department of Justice Office Of The United States Attorney 500 State Avenue, Suite 360 Kansas City, Kansas 66101		
	For: Filing Fee	\$ 350.00	
	Total		\$350.00
b.	To: Department of Justice Office Of The United States Attorney 500 State Avenue, Suite 360 Kansas City, Kansas 66101		
	For: Filing of Lis Pendens	\$ 5.00	
	Updated Title Opinion	\$100.00	
	Publication Service Fee	<u>\$892.88</u>	
	Total		\$997.88

c. **To: United States Marshal**
Federal Building, Suite 456
444 SE Quincy
Topeka, Kansas 66611-3592

For: Service of Complaint

Service fees	\$0
Mileage	<u>\$0</u>
Subtotal	0

For: Costs of Sale

Service fee	\$225.00
Mileage	\$ 92.15
Publication costs	<u>\$473.84</u>
Subtotal	\$790.99

Total **\$790.99**

d. **To: Department of Justice**
Office Of The United States Attorney
500 State Avenue, Suite 360
Kansas City, Kansas 66101

For: Payment on judgment

Total **\$198,861.13**

TOTAL PROCEEDS DISTRIBUTED **\$201,000.00**

There remains due and owing on the judgment against Defendant, Roy E. Unger, the sum of \$12,201.79, with interest accruing at the legal rate set forth in 28 U.S.C. § 1961 from and after October 9, 2007, to the date of payment, plus court costs and cost of this action presently and in the future incurred.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the proceeds of the Marshal's Sale shall be distributed as set out above and that the Plaintiff, United States Of America, shall have a deficiency judgment against the Defendant, Roy E. Unger, in the amount

of \$12,201.79 as of October 9, 2007, plus interest accruing after that date at the legal rate set forth in 28 U.S.C. § 1961, which is 4.05 percent per annum, to the date of payment, plus court costs and cost of this action presently and in the future incurred.

IT IS SO ORDERED:

Dated this 10th day of March, 2008, at Kansas City, Kansas.

s/ John W. Lungstrum
JOHN W. LUNGSTRUM
United States District Judge

Approved by:

ERIC MELGREN
United States Attorney for the District of Kansas

s/ David D. Zimmerman

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