

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

In re:)
)
SUMNER, MARIETTA) Case No. 3:24-bk-30495-SHB
) Chapter 7
Debtor(s))

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on the Motion to Sell Survivorship Interest by Online Auction on December 12, 2024, at 9:00 a.m., in Bankruptcy Courtroom, 1-C, located at First Floor, Howard H. Baker, Jr., United States Courthouse, Knoxville, Tennessee.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought in the Motion to Sell Survivorship Interest by Online Auction and may enter an order granting that relief.

MOTION FOR AUTHORITY TO SELL
SURVIVORSHIP INTEREST BY ONLINE AUCTION

Comes Ann Mostoller, Trustee, and moves the Court for authorization to sell the survivorship interest in real property located at 606 Cline Avenue, Morristown, Tennessee 37814 belonging to the estate and to support her motion would show:

1. The sale is made by the Trustee pursuant §363(f)(3) and Bankruptcy Rule 6004. Notice is given in accordance with Bankruptcy Rule 9013-1(f)(1).

2. The Trustee proposes to sell the survivorship interest in real property located at 606 Cline Avenue, Morristown, Tennessee 37814 through an online auction running from January 16, 2025 at 9:00a.m. through January 30, 2025 at 7:00p.m. To participate in the online auction, go to www.furrow.com.

3. The sale will be conducted by Furrow Auction Company with a fee structure of \$5,000.00 or a ten percent (10%) buyer's premium on the gross sales' proceeds of \$0 - \$50,000 (whichever is greater), \$7,500.00 or a ten percent (10%) buyer's premium on the gross sales' proceeds of \$50,001.00 - \$100,000.00 (whichever is greater), and ten percent (10%) buyer's premium on the gross sales' proceeds of \$100,001.00 or higher.

4. The property is owned by Doyle and Marietta Sumner, husband and wife, as tenants by the entirety. See Attached exhibit for further information.

5. Based on information received from a real estate agent, the property has a fair market value of approximately \$260,000.00 and is subject to a mortgage of approximately \$102,000.00. The debtor, Marietta Sumner, is 61 years of age and in reasonably good health while the husband is 61 years of age but in poor health, suffering from black lung, COPD and is diabetic.

6. Any objections to this proposed sale shall be filed with the Court and served on the Trustee. The Trustee reserves the right to continue the sale from time to time and from place to place as she deems appropriate.

7. Any objections not timely filed and served may be deemed waived.

THIS IS THE ONLY NOTICE OF THE TRUSTEE'S PROPOSED SALE THAT WILL BE MAILED TO CREDITORS AND ANY OTHER PARTIES IN INTEREST.

WHEREFORE, movant prays that the Court authorize the sale of the survivorship interest in real property upon entry of the Order.

DATED November 12, 2024.

/s/ Ann Mostoller

Ann Mostoller, #001146

Attorney for Trustee

136 South Illinois Ave., Suite 104

Oak Ridge, TN 37830

(865) 482-4466

bdavis@msw-law.com

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, a true and exact copy of the foregoing Motion to Sell by Online Auction and proposed order was filed electronically.

Notice of this filing will be sent to the following parties as indicated below:

via electronic/ECF mail

Tiffany Dilorio, Attorney for the U.S. Trustee; ECF

Mayer & Newton, Attorney for Debtor(s); ECF

All parties indicated on the Court's electronic filing receipt

via first class U.S. mail

All parties on the attached exhibit

Marietta Sumner

606 Cline Avenue

Morristown, TN 37814

/s/ Ann Mostoller

Attorney

PREVIEW OF ASSET AND AUCTION DETAILS

POSTED ON: www.furrow.com

LISTING AND BIDDING: Begins January 16, 2025 at 9:00a.m.
Ends January 30, 2025 at 7:00p.m.

PROPERTY LOCATION: 606 Cline Avenue, Morristown, TN 37814.

TERMS and CONDITIONS: Online bids must be submitted online no later than 7:00p.m. on January 30, 2025. Certified funds must be paid within ten (10) days from the date of auction. Sale will be by Trustee's Deed with no warranties of any kind. Bidders are responsible for performing their own due diligence and research on the property.

BANKRUPTCY CASE NO.: 3:24-bk-30495-SHB

CONTACT INFORMATION: Chuck Fisher chuck@furrow.com, 865-546-3206
Rob Strickland rob@furrow.com, 865-546-3206

ASSET DESCRIPTION: Survivorship interest of debtor, Marietta Sumner, in real property located at 606 Cline Avenue, Morristown, TN 37814. Current tax appraisal is \$154,600 with a mortgage of approximately \$102,000. The debtor is 61 years of age and in reasonably good health while the husband is 61 years of age but in poor health, suffering from black lung, COPD and is diabetic. Property is located in Hamblen County, Tennessee and titled to Doyle Sumner and wife, Marietta Sumner. For chain of title see Book 1581, page 572, in the Register's Office of Hamblen County, Tennessee. MAP 0330, GROUP A, PARCEL 011.00

“Survivorship Interest” Auction Overview

“Survivorship Interest” Auctions offer the potential to be a very lucrative investment for savvy investors but can only be conducted when certain conditions exist.

To have a “Survivorship Interest” Auction, two of the more important criteria are:

1. Ownership in the Real Property must be Tenancy by The Entirety. Tenancy by the Entirety is a form of Joint Tenancy for a married couple where ownership offers survivorship and protection from creditors. In this situation, a husband and wife share equally in the ownership of the real property. When one party dies, their right of survivorship passes to the other party thereby making the surviving party the sole owner of the real property.
2. One of the two owners must be in bankruptcy (i.e. either the husband or wife).

In a “Survivorship Interest” Auction, you are bidding on the bankrupt party’s right of survivorship. In other words, you are buying the bankrupt party’s position in the Joint Tenancy. Therefore, if the non-bankrupt party pre-deceases the bankrupt party you basically inherit the interest of the bankrupt in the real property, giving you sole ownership. If the bankrupt party – the party whose interest you bid on and bought - dies prior to the other (non-bankrupt) party in the Joint Tenancy then your purchase is worthless as there is no longer an opportunity to inherit the surviving (non-bankrupt) party’s interest in the real property. In essence your investment “dies” with the bankrupt party.

Therefore, if the non-bankrupt party dies prior to the bankrupt party (whose position in the Joint Tenancy you purchased), their rights of survivorship pass to you as the high bidder and owner of the bankrupt party’s position in the Joint Tenancy thereby creating the potential (depending on the value/equity of the subject real property) for a very lucrative return on your investment.

Potential bidders will be provided with all available public information contained in the bankruptcy file of the bankrupt party as well as additional public information regarding the real property. TITLE WORK WILL NOT BE PROVIDED. There will NOT be an opportunity to inspect the real property prior to bidding. Successful bidders will be provided a Trustee’s Deed (*A trustee’s deed is a type of deed where the title of a property is held by a third-party trustee instead of the actual property owner*). Closing will take place 30 days after court approval.

EXAMPLE “SURVIVORSHIP INTEREST” AUCTION SCENARIO:

An elderly husband and wife own a home as Tenants by the Entirety with an estimated market value of \$150,000 and have no mortgage on the property. The husband has filed bankruptcy and the wife is in poor health. Given the wife’s poor health, it is likely that the husband (bankrupt party) will survive or outlive his wife. This scenario provides an investment opportunity whereby a bidder can buy the husband’s survivorship rights (position in the Joint Tenancy), “betting” on the fact that due to the wife’s shorter life expectancy due to her poor health, you (as the owner of the bankrupt husband’s position in the Joint Tenancy) will inherit the deceased wife’s position in the Joint Tenancy giving you sole ownership of said home.

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ORDER ALLOWING SALE OF SURVIVORSHIP INTEREST
BY ONLINE AUCTION

Upon Motion of the Trustee pursuant to 11 U.S.C. §363(f)(3) seeking authorization to sell the survivorship interest in real property located at 606 Cline Avenue, Morriston, Tennessee 37814 belonging to the estate, by online auction with Furrow Auction Company, notice to the lien holder, Knoxville TVA Employees Credit Union,

IT IS ORDERED that Ann Mostoller, Trustee, is allowed to sell the survivorship interest in the property described above.

IT IS FURTHER ORDERED that the Trustee may pay from the sale proceeds all costs of sale normally incurred and the auctioneer's fee, as provided in application of employment.

IT IS FURTHER ORDERED that the sale may be concluded upon the entry of this Order and is not stayed until the expiration of fourteen (14) days after the entry of the Order.

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Approved for Entry:

/s/ Ann Mostoller
Ann Mostoller, #001146
Attorney for Trustee
136 South Illinois Ave., Suite 104
Oak Ridge, TN 37830
(865) 482-4466
bdavis@msw-law.com