

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, October 25, 2016

Hearing Room 1568

10:00 AM

**2:16-17344 Diashell Glasgow**

**Chapter 7**

■

**#1.00** Hearing re [15] Order Requiring Debtor To Appear And Show Cause Why Case Should Not Be Dismissed Because Of Debtor's Failure To Pay The Filing Fee In Installments

Docket No: 0

**Tentative Ruling:**

10/24/2016: For the reasons set forth below: Case DISMISSED.

**Pleadings Filed and Reviewed:**

- 1) Order Approving Payment of Filing Fee in Installments ("Fee Installment Order") [Doc. No. 7]
- 2) Order Requiring Debtor to Appear and Show Cause Why Case Should Not be Dismissed Because of Debtor's Failure to Pay the Filing Fee in Installments ("OSC") [Doc. No. 15]
  - a) Notice of OSC [Doc. No. 17]

On June 2, 2016, the Court entered an order requiring Diashell Glasgow ("Debtor") to pay the filing fee according to the following schedule:

- First installment payment: \$100 with the filing of the petition (6/2/16);
- Second installment payment: \$100 on or before 8/31/16; and
- Third installment payment: \$135 on or before 9/30/16.

*See* Fee Installment Order.

The Debtor made the first installment payment of \$100 but has failed to make the second or third installment payments.

On September 8, 2016, the Court issued an Order Requiring Debtor to Appear and Show Cause Why Case Should Not be Dismissed Because of Debtor's Failure to Pay the Filing Fee in Installments ("OSC"). The OSC ordered the Debtor to make the delinquent installment payments by no later than one week prior to the hearing. The Debtor has failed to pay the remaining \$235 in installment payments as ordered by the Court.

Bankruptcy Rule 1017(b)(1) provides: "If any installment of the filing fee has not been paid, the court may, after a hearing on notice to the debtor and the trustee,

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dismiss the case."

The Debtor's case is dismissed based on the Debtor's failure to comply with the Court's Fee Installment Order and OSC. The Court will enter an order dismissing the case.

<b>Party Information</b>
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**Debtor(s):**

Diashell Glasgow

Pro Se

**Trustee(s):**

Richard K Diamond (TR)

Pro Se

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**2:16-18312 Malcolm Auzenne**

**Chapter 7**

■

**#2.00** Hearing re [16] Order Requiring Debtor To Appear And Show Cause Why Case Should Not Be Dismissed Because Of Debtor's Failure To Pay The Filing Fee In Installments

Docket No: 0

**Tentative Ruling:**

10/24/2016: For the reasons set forth below: CASE DISMISSED.

**Pleadings Filed and Reviewed:**

- 1) Order Approving Payment of Filing Fee in Installments ("Fee Installment Order") [Doc. No. 7]
- 2) Order Requiring Debtor to Appear and Show Cause Why Case Should Not be Dismissed Because of Debtor's Failure to Pay the Filing Fee in Installments ("OSC") [Doc. No. 16]
  - a) Notice of OSC [Doc. No. 18]

On June 22, 2016, the Court entered an order requiring Malcolm Auzenne ("Debtor") to pay the filing fee according to the following schedule:

- First installment payment: \$20 with the filing of the petition (6/22/16);
- Second installment payment: \$105 on or before 7/22/16;
- Third installment payment: \$105 on or before 8/22/16; and
- Fourth installment payment: \$105 on or before 9/22/16.

*See* Fee Installment Order.

The Debtor made the first installment payment of \$20 and the second installment payment of \$105 but has failed to make the third or fourth installment payments.

On September 8, 2016, the Court issued an Order Requiring Debtor to Appear and Show Cause Why Case Should Not be Dismissed Because of Debtor's Failure to Pay the Filing Fee in Installments ("OSC"). [Note 1] The OSC ordered the Debtor to make the delinquent installment payments by no later than one week prior to the hearing. The Debtor has failed to pay the remaining \$210 in installment payments as ordered by the Court.

Bankruptcy Rule 1017(b)(1) provides: "If any installment of the filing fee has not

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been paid, the court may, after a hearing on notice to the debtor and the trustee, dismiss the case."

The Debtor's case is dismissed based on the Debtor's failure to comply with the Court's Fee Installment Order and OSC. The Court will enter an order dismissing the case.

**Note 1**

The OSC was served upon the Debtor at the address listed on his bankruptcy petition, 14940 Gale Avenue, Hacienda Heights, CA 91745 (the "Hacienda Heights Property"). Prior to the issuance of the OSC, the Court granted stay-relief to permit the owner of the Hacienda Heights Property to pursue a state court unlawful detainer action against the Debtor. It is possible that the Debtor may have been evicted from the Hacienda Heights Property and therefore may not have received actual notice of the OSC.

Even if that were the case, Debtor received adequate notice of the OSC within the meaning of Bankruptcy Rule 1017(b)(1). Bankruptcy Rule 4002(a)(5) provides that the Debtor "shall file a statement of any change of the debtor's address." Local Bankruptcy Rule ("LBR") 1002-1(a)(2) reiterates this obligation: "Using the court-approved form, pursuant to FRBP 4002(a)(5), a debtor must file and serve a change of address each time a debtor's street address or post office box changes."

If the Debtor was in fact evicted from the Hacienda Heights Property, the Debtor did not file the required change of address form. Any lack of actual notice would have been the result of the Debtor's failure to comply with his obligations under the Federal and Local Rules of Bankruptcy Procedure.

The Court is entitled to deem notice sent to the address most recently provided by the Debtor to constitute notice within the meaning of Bankruptcy Rule 1017(b)(1). Any other construction would make it impossible for the Court to provide notice consistent with Rule 1017(b)(1), because the Court has no means of identifying the current addresses of debtors who fail to comply with Rule 4002(a)(5).

**Party Information**

**Debtor(s):**

Malcolm Auzenne

Pro Se

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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**2:16-14368 Jacqueline W Hyland**

**Chapter 11**

**#3.00** HearingRE: [70] Motion to Modify Order Authorizing Sale of Real Property Located at 11363 Berwick Street, Los Angeles, CA Free and Clear of the Liens of the Internal Revenue Service and Judy Robertson

Docket No: 70

**Tentative Ruling:**

10/24/2016: For the reasons set forth below, Motion DENIED.

**Pleadings Filed and Reviewed:**

- Motion to Modify Order Authorizing Sale of Real Property Located at 11363 Berwick Street, Los Angeles, CA Free and Clear of the Liens of the Internal Revenue Service and Judy Robertson ("Motion to Modify") [Doc. No. 70]
  - Declaration of Jacqueline W. Hyland in Support Thereof ("Decl. of Jacqueline Hyland") [Doc. No. 70]
  - Brief of the United States (On Behalf of its Agency, the Internal Revenue Service) to Court Order Requiring Parties to Submit Further Briefings ("IRS Brief") [Doc. No. 83]
    - § Declaration of Carla Kogachi in Support Thereof ("Decl. Carla Kogachi") [Doc. No. 86]
  - Opposition to the Motion to Modify ("Platinum Opposition") [Doc. No. 87]
  - Request for Judicial Notice in Support of Opposition to Debtor's Motion to Sell Free and Clear of All Liens ("Platinum's RJN") [Doc. No. 89]
  - Brief of Debtor in Support of Motion to Modify Order Approving Sale of Real Property Free and Clear of Liens ("Debtor's Brief") [Doc. No. 91]
- Application shortening time on Emergency Motion for Order Modifying Order Authorizing Sale of real Property Free and Clear of Liens ("Emergency Motion") [Doc. No. 67]
  - Order Denying Application for Order Setting Hearing on Shortened

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**Chapter 11**

Notice Re: Emergency Motion of Debtor for Order Authorizing sale of real Property Free and Clear of IRS Lien and Lien of Judy Robertson [Doc. No. 68]

· Stipulations:

- Stipulation by Platinum Loan Servicing, Inc. and Debtor Re: Modification of Stipulated Order for Relief from Stay with Proof of Service ("Platinum Stipulation") [Doc. No. 76]
  - § Order Approving Platinum Stipulation [Doc. No. 78]
- Stipulation by the United States of America and Debtor Regarding the motion of Debtor for Order Modifying Order Authorizing Sale of real property Located at 11363 Berwick Street, Los Angeles Free and Clear of the Liens of the Internal revenue Service and Judy Robertson ("IRS Stipulation") [Doc. No. 80]
  - § Opposition to IRS Stipulation [Doc. No. 82]
  - § Order Requiring Parties to Submit Further Briefings [Doc. No. 83]

**Facts and Summary of Pleadings**

The Debtor filed the instant Motion to Modify related to real property located at 11363 Berwick St. Los Angeles, CA 90049 ("Property"). Doc. No. 70. Based on the following, the Court DENIES the Motion to Modify.

On April 5, 2016, Jacqueline W. Hyland ("Debtor") filed a voluntary chapter 7 petition ("Petition"). On August 5, 2016, the Court ordered the case converted to chapter 11. Doc. No. 44. On August 15, 2016, the Debtor filed a motion to sell the Property pursuant to 363(f) ("Original Motion"). Doc. No. 50. At the time, the following two liens encumbered the Property: (1) Fasack Investments, LLC, serviced by Platinum Loan Servicing, Inc. ("Platinum"), in the amount of \$1,234,726.41 as of July 8, 2016, and (2) Nancie Apps, in the amount of \$37,500.00. *See* Doc. No. 27 at 9, *see also* Decl. of Jacqueline Hyland ¶¶ 4-5. The Court held a hearing on September 7, 2016 ("Hearing"), for the Original Motion and approved the sale to purchasers Andrew and Daniella Friedman ("Proposed Purchasers") for \$1,650,000 pursuant to § 363(f)(3). Doc. No. 57. The Court entered an order approving the sale of the Property to the Proposed Purchasers on September 13, 2016, consistent with the Original Motion and the Hearing. Doc. No. 65.

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Subsequently, the Debtor discovered a lien recorded against "Jeanette H. Hyland Estate" on October 15, 2015 and held by the Department of Treasure – Internal Revenue Service ("IRS"). Motion to Modify, Ex. 4. As of October 10, 2016, the IRS lien is in the amount of \$1,817,700.67. Decl. Carla Kogachi ¶ 7. The day the IRS recorded its lien, the Debtor held title to the Property as Trustee of the Jeanette Hyland Revocable Trust, dated September 19, 1989. Decl. of Jacqueline Hyland, ¶ 7. Previously, the Debtor was not aware of the lien prior to the Original Motion as the Estate of Jeanette Hyland closed on May 31, 2013, with all assets transferring to the Debtor as Trustee, resulting in the lien's failure to appear in early searches by the Debtor. *Id.* Additionally, Judy Robertson obtained a judgment against the Debtor in the amount of \$73,050.89 at the Superior Court of the State of California, in the County of Los Angeles on July 13, 2016 ("Judgment"), after the date of the Petition. Decl. of Jacqueline Hyland, ¶ 8. On September 9, 2016, Ms. Robertson recorded the Judgment against the Property. *Id.*

**Motion to Modify**

On September 22, 2016, the Debtor filed the Emergency Motion. Doc. No. 67. The Emergency Motion sought to modify the Original Motion in order to allow the Debtor to sell free and clear of the IRS' lien and Ms. Robertson's lien. *Id.* The Debtor requested shortened notice because a previous Court order authorized Platinum to complete a non-judicial foreclosure sale on or after September 30, 2016. *See* Doc. No. 40 (order granting Platinum's motion for relief from the automatic stay ("Stay-Relief Motion"), but barring Platinum from conducting a foreclosure sale on or before September 30, 2016). On September 23, 2016, the Court denied the Emergency Motion. Doc. No. 68.

The Debtor filed the instant Motion to Modify on September 26, 2016. Doc. No. 70.

Based on current estimates, the Debtor estimates that the sale proceeds will be distributed as follows:

Sales Price:	\$1,650,000.00
Less:	
Estimated property taxes:	\$7,136.93
Commission:	\$107,250.00
Estimated Costs of Sale:	<u>\$18,000.00</u>

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Subtotal:	\$1,308,163.64
Payable to Platinum Loan:	\$1,270,663.64
Payable to Nancie Apps:	<u>\$37,500.00</u>
Balance:	<u>\$209,360.92</u>

The Debtor seeks authorization to amend the previous Court order granting the Original Motion and further approve the Motion to Modify in order to sell the Property free and clear of the IRS lien and Ms. Robertson's lien under § 363(f). The Debtor believes that her business decision to sell the Property is in the best interest of the estate and creditors for the following reasons:

1. Sound Business Decision

The Property, which is a single family residence, is on the verge of being lost to foreclosure, with a pending foreclosure sale set for September 30, 2016. The Debtor has identified the Property as one which is not generating sufficient income to sustain itself. A prompt sale of the Property at the highest market price benefits both the estate and creditors. Therefore, the Property should be sold pursuant to §363(b).

2. Accurate and Reasonable Notice

The Debtor will serve a copy of the Sale Motion on all parties as required by Federal Rule of Civil Procedure ("FRBP") and the Local Rules of Bankruptcy ("LBR"). The Debtor submits that no party objected to the Motion to Modify.

3. Fair and Reasonable Price

Negotiation of the price was at arm's length and the Debtor believes that the proposed purchase price represents the true value of the Property, rendering the highest value of the Property, in the best interests of the estate. The Debtor submits that she has not been contacted by any over-bidders. Additionally, the costs and commissions associated with the sale are reasonable. Hence, the Debtor submits that the proposed sale will yield a fair and reasonable value for the Property.

4. Good Faith

The sale of the Real Property is conducted in good faith because the sale will be subject to inspection by the Court, all secured and unsecured creditors in this case, and all potential buyers who have previously shown interest in the Property, ensuring that all potential purchasers pay the highest dollar amount. Moreover, the Debtor has no

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connections, relations, or prior dealings with the Proposed Purchasers other than the proposed sale.

**IRS and Platinum Stipulations**

On September 29, 2016, Platinum filed the Platinum Stipulation, continuing Platinum's foreclosure sale to October 31, 2016. Doc. No. 76. The Court approved the Platinum Stipulation on September 30, 2016. Doc. No. 78. Additionally, on October 11, 2016, the IRS filed the IRS Stipulation. Doc. No. 80. The Debtor and the IRS agreed that the Property could be sold free and clear of the IRS lien as long as the IRS lien attached to the proceeds of the Property's sale. Platinum filed an objection to the IRS Stipulation on October 11, 2016. Doc. No. 82. Platinum argued that the Court's previous order granting the Original Motion allowed Platinum's lien to be paid through the proceeds of the Property's sale. Platinum contended it is the undisputed first priority lien and the IRS Stipulation represents a collateral attack on Platinum's rights and interest in the Property. On October 12, 2016, the Court entered an order requiring the IRS, Platinum, and the Debtor to submit further briefings on the matter, specifically informing the Court, that "in the event that Platinum does not consent to the [Motion to Modify], whether there are any other provisions or legal authority to approve the sale free and clear of encumbrances under § 363(f), notwithstanding Platinum's objection." Doc. No. 83.

**IRS Brief**

On October 19, 2016 the IRS filed its brief. Doc. No. 86. The IRS contends that the Debtor did not properly serve the United States and the IRS. IRS Brief at 5. Pursuant to FRBP 7004 and LBR 2002-2(c)(2), the IRS avers that the Debtor failed to serve (1) the Civil Process Clerk for the United States Attorney's Office for the Central District of California and (2) the United States Attorney General. *Id.* at 6-7. The IRS further contends that the Debtor does not meet any of the five conditions set forth under 11 U.S.C. § 363(f) in order to sell the Property free and clear of encumbrances and interests. First, § 363(f)(1) does not apply because California law does not permit a sale free and clear of its liens despite the transfer. Second, § 363(f)(2) requires consent and there is no indication that Platinum or the IRS will consent unless each party's respective lien will be paid first. Third, § 363(f)(3) is inapplicable because the total value of the liens against the Property, i.e. \$3,100,000, exceeds the proposed sale price of the Property, i.e. \$1,650,000. Fourth, § 363(f)(4) is not pertinent because the validity of Platinum's lien is not in dispute. Finally, § 363(f)(5) is not involved as it

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requires an available type or form of legal or equitable proceeding in which a court could compel Platinum to release its lien for payment of an amount that is less than full value of Platinum's claim. The IRS is not aware of any such legal or equitable proceeding and the IRS contends that the Debtor has failed to identify one.

**Platinum's Opposition**

On October, 19, 2016, Platinum filed its opposition. Doc. No. 87. Platinum contends that the Debtor seeks to sell the Property, even though (1) the Debtor failed to submit evidence that the sale price is fair and reasonable,[FN 1] (2) the Debtor had no interest in the Property because there is no equity in the Property, and (3) the exigencies of the sale were caused by the Debtor's failure to properly disclose all assets and liabilities as well as appropriately serve the IRS. Moreover, Platinum asserts that the Motion to Modify does not satisfy the requirements under §363(b) because the sale provides no benefit to the estate, i.e. the sale will not generate any funds to pay the Debtor's creditors because the total amount of liens exceed the purchase price of the sale; the sale is not fair and reasonable because the Debtor provides no basis for why she believes the Property's value to be worth \$1,750,000; the sale is not in good faith because the Debtor stated under penalty of perjury that she obtained the loan from Platinum to pay her attorneys in "challenging an IRS assessment of taxes against the Estate of Jeanette Hyland, a dispute that has not as of yet, been resolved" [See Doc. No. 30]; and the Debtor did not give adequate and reasonable notice because of the Debtor's failure to provide Platinum with notice of the IRS lien and to provide the IRS with notice of the Original Motion. *Id.* at 7-8. Finally, Platinum avers that the Debtor may not sell the Property free and clear of encumbrances under § 363(f) because none of the five conditions apply. Platinum submits that California law does not allow the sale free and clear of Platinum's lien, the purchase price of the sale does not exceed the total amount of liens encumbering the Property, Platinum's claim is not in bona fide dispute because there is no dispute as to the validity of the claim, and Platinum cannot be compelled to accept a money satisfaction because neither a foreclosure nor a cram down under § 1129(b)(2) constitute a legal or equitable proceeding.

**Debtor's Brief**

On October 19, 2016, the Debtor filed her brief. Doc. No. 91. The Debtor represents that she does not dispute the inapplicability of §§ 363(f)(1), (2), (3), or (5). Debtor's Brief at 4. Instead, the Debtor relies on § 363(f)(4), contending that there

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exists a bona fide dispute, not to the amount of Platinum's lien, but to the priority between Platinum's lien and the IRS' lien.[FN 2] *Id.* The Debtor argues that the benefit to the estate is that either Platinum gets paid in full and the IRS receives a substantial paydown on its obligation or the IRS receives nearly a full payment and Platinum becomes unsecured. *Id.* The Debtor submits that either result has a positive benefit for the Debtor. *Id.*

**Findings of Fact and Conclusions of Law**

**§ 363(b)**

The Court finds that the Debtor does not satisfy the requirements of § 363(b). Section 363(b)(1) provides that the "trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). The following factors are considered in the approval of the proposed sale: (1) a sound business purpose justifying the sale; (2) an accurate and reasonable notice of the sale; (3) the price is adequate, i.e. fair and reasonable; and (4) the sale is in good faith. *In re Wild Horse Enterprises, Inc.* 136 B.R. 830, 841-842 (Bankr. C. D. Cal 1991).

It is unclear whether the sale of the Property is a sound business decision. On the one hand, the Property does not generate sufficient income to sustain itself and a prompt sale at the highest market price will benefit both the estate and creditors. However, on the other hand, both the IRS' lien and Platinum's lien exceed the total proposed purchase price, rendering the Debtor without equity and without interest in the Property. Thus, it is unclear what benefit the Debtor and the Debtor's estate would gain by selling the Property. Regardless, the Court finds that the Debtor more concretely fails to satisfy the other factors under §363(b).

The Court finds that the Debtor did not provide an accurate and reasonable notice of the sale. As to the Original Motion, the Debtor failed to provide the IRS with sufficient notice and process of the Property's Sale. Although the Debtor submitted to the Court of being unaware of the IRS lien recorded against the Estate of Jeanette Hyland, a material representation upon which the Court granted the Original Motion and now finds highly suspect for reasons stated below, the Debtor, again, failed to properly notice and serve the IRS in the Motion to Modify. FRBP 7004 requires relief sought in contested matters to be in writing, with reasonable notice and opportunity to be afforded to the party against whom relief is sought. FRBP 9014(b) requires service

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of a motion "be served in the manner provided for service of a summons and complaint by Rule 7004." FRBP 7004(b)(4) and LBR 2002-2(c)(2) require service in contested and adversary matters, involving the United States or the IRS, to be made upon the following: (1) the civil process clerk at the office of the United States Attorney for the district where the matter is brought, (2) the Attorney General of the United States, and (3) the officer or agency to which the action pertains. Here, the Debtor's proof of service attached to the Motion to Modify only served the IRS agency and failed to serve the civil process clerk and the attorney general.

Finally, the Court finds that the sale of the Property was not conducted in good faith. "Good Faith" encompasses fair value, and further speaks to the integrity of the transaction. *In re Wild Horse Enterprises*, 136 B.R. at 842. Here, the Debtor's counsel submitted material representations in the Original Motion to the Court that the two liens encumbering the Property included Platinum's lien and Nancie Apps' lien. *See* Doc. No. 50 at 4. Subsequently, the Emergency Motion and the Motion to Modify indicate that the Debtor was unaware of the IRS lien, specifically stating that the IRS recorded the lien against the Estate of Jeanette Hyland. Motion to Modify, Decl. of Jacqueline Hyland ¶ 7; *see also* Emergency Motion. Yet, the Debtor filed a response to Platinum's Stay-Relief Motion months before, on July 28, 2016, declaring that the Debtor originally borrowed the loan from Platinum for living expenses and "to pay for attorneys *challenging an IRS assessment of taxes against the Estate of Jeanette Hyland*, a dispute that has not as of yet, been resolved." Doc. No. 30 at 4, ¶ 3. The Court finds it disturbing that the Debtor admits to knowing about IRS assessments against Jeanette Hyland's estate in a previous pleading and, yet, subsequently claims to be unaware, especially in light of the fact that those assertions were material representations to the Emergency Motion and the instant Motion to Modify. The Court reminds the Debtor's attorney that pursuant to FRBP 9011(b), every petition, pleading, written motion and other paper, signed by an attorney of record, represents to the Court that the factual contentions and allegations are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. FRBP 9011(b). Subsection (c) allows the Court to impose sanctions against attorneys that violate FRBP 9011(b). FRBP 9011(c). As such, the Court finds that the Debtor does not meet the requirements of § 363(b).

**§ 363(f)**

As a preliminary matter, the Court will not address whether the sale of the

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Property would be allowed under §§ 363(f)(1), (2), (3), or (5), as the Debtor admits the inapplicability of these sections to the instant Motion to Modify. Pursuant to § 363(f)(4), a trustee may sell property free and clear of any interest in the property only if the interest is subject to a bona fide dispute. 11 U.S.C. § 363(f)(4). While not defined in the bankruptcy code, the Ninth Circuit adopted a test for determining whether a bona fide dispute exists, which asks "whether there is an objective basis for either a factual or a legal dispute as to the validity of the debt." *In re Vortex Fishing Sys., Inc.*, 277 F.3d 1057, 1064 (9th Cir. 2002) (citing *In re Busick*, 831 F.2d 745, 750 (7th Cir. 1987)). Further, "the mere existence of pending litigation or the filing of an answer is insufficient to establish the existence of a bona fide dispute." *Id.* at 1066. While the holding of *In re Vortex* applied in the context of § 303, case law has subsequently extended the bona fide definition to the context of § 363(f). See *In re Dewey Ranch Hockey, LLC*, 406 B.R. 30, 39 (Bankr. D. Ariz. 2009). Here, the Debtor argues that the dispute between the IRS and Platinum as to the order of lien priority sufficiently qualifies as a bona fide dispute. The Court disagrees. The lien priority does not change the underlying validity of a lien. Further, the Debtor admits to the validity of Platinum's lien, stating, "the Debtor does not dispute the obligation owed to Platinum." Debtor's Brief at 3. As the moving party, the Debtor has the burden to show that a bona fide dispute exists in the context of §363(f)(4). The Debtor has not met this burden. Therefore, the Court finds that the Motion to Modify does not satisfy §363(f)(4) in order to sell the Property free and clear of the IRS lien.

For the foregoing reasons, the Court HEREBY DENIES the Motion to Modify.

Platinum shall submit a conforming order within seven days of the hearing.

**Note 1:** The Court notes that the Original Motion contained statements of an offer and the hearing on the Original Motion subsequently approved an offer of \$1,650,000 to the Proposed Purchasers. Doc. No. 50. The \$1,650,000 amount is merely a 12.5% difference from the Debtor's Schedule A and more likely represents the fair market value of the Property.

**Note 2:** The Debtor's Brief states that, "the Debtor does not dispute the obligation owed to Platinum, however, *the Estate's liability to the IRS is disputed* and is currently being reviewed by Peter Palka in the IRS' office in Houston Texas." Debtor's Brief at 3 (emphasis added). What makes the Debtor's statement unclear is

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that the Debtor subsequently adopts a more concrete argument that the priority between Platinum's lien and the IRS lien qualifies as a bona fide dispute with the sentence, "this is the bona fide dispute that exists in this matter, to whom do the proceeds of th[e] sale belong." *Id.* at 4. Moreover, the IRS Stipulation makes no mention of disputing the validity of the IRS lien. *See* Doc. No. 80. As such, to the extent that the Debtor is attempting to raise the argument that the validity of the IRS is in dispute and qualifies as the bona fide dispute under § 363(f)(4) is now foreclosed.

**Party Information**

**Debtor(s):**

Jacqueline W Hyland

Represented By  
Michael A Cisneros