

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

UNITED STATES OF AMERICA,	§	
<i>Plaintiff,</i>	§	
	§	
VS.	§	CIVIL ACTION NO. 9:14-CV-138
	§	
JOHN PARKS TROWBRIDGE, JR.,	§	
BRIGHT FUTURE INVESTMENTS, INC.,	§	
and IDEAL ABILITIES,	§	
<i>Defendants.</i>	§	

**MEMORANDUM OPINION AND ORDER**

Pending before the court is Defendant John Parks Trowbridge Jr.'s "Supplemental Motion to Vacate the Final Judgment (Dkt. # 67-1) As Void for Michael H. Schneider's Failure to Take an Oath or Affirmation that Accords with the Provisions of Article VI, Clause 3 of the Constitution" (Doc. No. 81) ("Motion to Vacate"), and the Plaintiff's "United States' Notice of Confirmed Sale and Motion to Disburse Funds"(Doc. No. 85) ("Motion to Disburse Funds").<sup>1</sup> For the reasons stated below, Trowbridge's "Motion to Vacate" (Doc. No. 81) is denied and the United States' "Motion to Disburse Funds" (Doc. No. 85) is granted.

On October 1, 2015, United States Magistrate Judge Keith Giblin issued a Report and Recommendation granting the United States' Motion for Summary Judgment (Doc. No. 42) and assessing judgment against Trowbridge by enforcing its tax liens and foreclosing upon and selling the Tyler County Property, using the sale proceeds to help satisfy the tax liabilities. (Doc. No. 60.)

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1. On January 13, 2017, Trowbridge filed a "Motion to Vacate the Judgment as Void for Michael H. Schneider's Lack of Authority to Exercise the Judicial Power of the United States or Enter Judgment in this Case" (Doc. No. 78) before filing the pending "Motion to Vacate" (Doc. No. 81). On January 24, 2017, Trowbridge filed "John Parks Trowbridge, Jr.'s Voluntary Withdrawal of Motion to Vacate, Docket No. 78, Dated January 12, 2017." (Doc. No. 82.) The court grants Trowbridge's separate motion.

Over Trowbridge's objections, Judge Schneider<sup>2</sup> adopted the report and recommendations of the magistrate judge, and entered a final judgment on March 3, 2016. (Doc. Nos. 66, 67.) The United States and Internal Revenue Service have already sold the property in accordance with the Final Judgment and deposited the proceeds into the registry of the court. (Doc. No. 85, Ex. A.)

Pursuant to FED. R. CIV. P. 60(b)(4), Trowbridge moves to vacate Judge Schneider's Final Judgment as void. Specifically, Trowbridge claims Judge Schneider lacks the authority to exercise the "judicial power of the United States" because part of the oath that Judge Schneider took as a district judge included the phrase "so help me God," which he alleges violates the religious test provision in Article VI Clause 3 of the Constitution.<sup>3</sup> Trowbridge argues that the oath of office is not valid and therefore the final judgment is void. His arguments are meritless and not relevant to the judgment. *See United States v. John Parks Trowbridge, Jr.*, 591 F. App'x 298, 299 (5th Cir. 2015) (quoting *Rain v. Commissioner*, 737 F.2d 1417 (5th Cir. 1984)) ("We do not address [Trowbridge's] arguments further as there is 'no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest these arguments have some colorable merit.'").

After careful consideration of Trowbridge's motion, the court is of the opinion that it fails to set forth a meritorious ground warranting relief from the judgment under Rule 60(b). Therefore, Trowbridge's "Motion to Vacate" (Doc. No. 81) should be denied.

The court finds that the judgment that entered in favor of the Plaintiff, United States, and against the Defendant, Trowbridge, is valid. The court considered the sale of the property, the

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<sup>2</sup> On September 13, 2016, this case was transferred to the undersigned United States District Judge. (Doc. No. 75.)

<sup>3</sup> "The Senators and Representatives before mentioned, and... all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States." U.S. Const. Art. VI, Cl.3.

declarations, together with the notices of the sale and finds that the sale comports with the “Amended Order of Sale and to Vacate property” and the judgment. Accordingly, the “Motion to Disburse Funds” (Doc. No. 85) should be granted.

**ORDER**

For the reasons set forth above, it is therefore,

**ORDERED** that Trowbridge’s “Motion to Vacate” (Doc. No. 81) is **DENIED** and Plaintiff United States’ “Motion to Disburse Funds” (Doc. No. 85) is **GRANTED**.

It is further **ORDERED** that the Clerk disburse all funds and accrued interest currently in the Court’s Registry under Case No. 9:14-cv-138 in the following order: first, to any fees owed to the Clerk, second, to reimburse the IRS for costs of sale as follows:

1) AFX Title Search for cost of Title Report	\$319.90
2) B&D Security Systems for Locksmith	\$175.00
3) Tyler County Booster for Legal Advertising	\$1,008.80
Total Cost of Sale	\$1,503.70

The Clerk is to make the check payable to “United States Treasury” and mail to:

Internal Revenue Service  
Attn: Patricia Hall  
Property Appraisal & Liquidation Specialist  
Internal Revenue Service  
4050 Alpha Road, MC 5135 NDAL  
Farmers Branch, Texas 75244

Third, to Tyler County Tax Assessor-Collector for outstanding ad valorem property taxes as follows: \$5,154.85 (if paid by 4/30/2017) or \$5,247.72 (if paid by 5/31/2017). The Clerk is to make the check payable to “Tyler County Tax Assessor-Collector” and mail to:

Lynnette Cruse  
Tyler County Tax Assessor-Collector  
1001 W. Bluff

Woodville, Texas 75979

Fourth, the remainder of the funds and any accrued interest, to the United States for federal taxes owed by John Parks Trowbridge, Jr. pursuant to judgment entered against John Parks Trowbridge, Jr. in *United States v. Trowbridge, Jr.*, Civil No. 4:14-cv-00027 (S.D. Tex.).

The Clerk is to make the check payable to “U.S. Department of Justice” and mail to:

U.S. Department of Justice  
Attn: Joshua Smeltzer  
Trial Attorney, Tax Division  
717 N. Harwood Street, Suite 400  
Dallas, Texas 75201.

Further, to the extent necessary, it is **ORDERED** that the IRS shall grant title, possession and a deed to the purchaser of the subject property, pursuant to the terms of the Amended Order of Sale (Doc. No. 76).

**So ORDERED and SIGNED this 4th day of May, 2017.**



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Ron Clark, United States District Judge