

BMD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	No. 06 CR 964
)	
v.)	Judge Ronald Guzman
)	
MICHAEL E. KELLY)	

**ORDER TO APPROVE THE SALE PROCEDURE OF THE SPECIAL MASTER FOR
PERSONAL PROPERTY ASSETS VALUED LESS THAN USD100,000**

Douglas A. Doetsch, the court-appointed special master (the “Special Master”) in the case of *United States of America v. Michael E. Kelly*, raised in open court on May 16, 2011, a proposed sale procedure for the sale of personal property assets valued less than USD100,000 (the “Proposal”). The Court, having heard from the Special Master, the government and defendant Kelly on May 16, 2011, and being fully advised in the premises, finds and orders as follows:

I. Background

1. Many of the assets contributed by Michael E. Kelly, his family and Grupo Kelly have modest value, including, but not limited to certain vehicles and boats identified in Exhibit B to the Proposed Plan of Action of the Special Master (Dkt. #139) (collectively, the “Personal Property Assets”).

2. Prior to disposing of the Personal Property Assets, the Special Master seeks to establish a procedure with this court that will obtain not only the highest sale price for the Personal Property Assets, but the highest net proceeds for the benefit of the victims.

II. Sale Procedures for Sales of Discrete Parcels of Real Property

3. The Sale Procedures for Sales of Discrete Parcels of Real Property, as approved by this Court by minute order on October 28, 2009 (Dkt. #237) (the “Real Property Sale Procedures”), set forth the following steps to dispose of discrete parcels of real property whose sale is not part of the ordinary course of business:

Step (1): Identify an appraiser to provide an appraisal of each relevant property (note that “disinterested” is the only requirement per [28 USC § 2001, *et seq*]), which appraiser shall be approved by the Court. In the case of any parcel for which FTI Consulting has previously provided to the Special Master a valuation analysis, such valuation analysis shall serve as the required appraisal. In the case of any parcel for which FTI Consulting has not previously provided an appraisal, the Special Master would have the authority to rely upon an appraisal or valuation provided by a disinterested appraiser of his choice.

Step (2): Publish a notice containing the terms of each sale and the appropriate procedure for placing an offer in a newspaper of general circulation in Panama or Mexico, as the case may be, at least ten (10) days before the sale is confirmed (*i.e.* in the case of a sale of real property in Cancún, the notice might be published in *La Reforma*, *El Universal* or *Excelsior*, each a newspaper of general circulation Mexico City, Mexico).

In addition, the U.S. Attorney’s Office will notify the victims of the sale by publishing an English version of the sale notice on its victim website, www.notify.usdoj.gov, which victims can access with a Victim Identification Number and Personal Identification Number provided to them by the United States Attorney’s Office.

Step (3): Sell the real property in question for at least 2/3 of the appraised value and, to the extent that publication (*see Step (2)* above) yields an offer that exceeds the original offer, accept such higher offer provided that the terms of such offer are in the best interest of the victims, as determined by this Court.

In each case, sales of discrete parcels of real property will be confirmed by this Court's order. Furthermore, if the Special Master determines, in the exercise of his professional business judgment, that that the procedures set forth in this Section II.b are inapplicable or are not commercially reasonable as applied to a given discrete parcel of real property, he will contact this Court to discuss possible exceptions to the aforementioned sales procedure.

III. The Real Property Sale Procedures should not apply to disposal of Personal Property Assets

4. While the Real Property Sale Procedures make sense for the sale of real property, they do not serve the best interest of the victims in relation to the disposal of the Personal Property Assets.

5. Many of the Personal Property Assets have a value substantially less than USD100,000, at best. The transactional costs required to sell many of the Personal Property Assets should the Special Master utilize the Real Property Sale Procedures would, in many of these cases, exceed the net proceeds obtained from the sale, leaving little money to contribute to the Restitution Fund.

III. Suggested Procedures for Sale of Personal Property Assets

6. In the alternative, the Special Master proposes that he publish an advertisement for each of the Personal Property Assets, containing the description of the item for sale and the

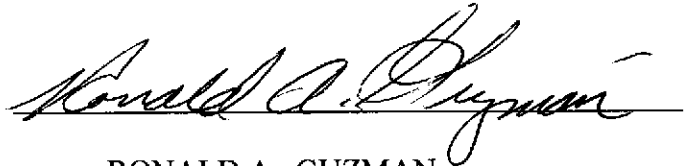
appropriate procedure for placing an offer, in a newspaper of general circulation in the locale where the Personal Property Asset is located for at least ten (10) days.

7. In addition, the U.S. Attorney's Office will notify the victims of the sale by publishing an English version of the sale notice on its victim website, www.notify.usdoj.gov, which victims can access with a Victim Identification Number and Personal Identification Number provided to them by the United States Attorney's Office.

8. At the close of the ten (10) day publication period, the Special Master may accept, without further approval necessary from this Court, the offer that he determines in his professional business judgment is most favorable to the victims.

9. Therefore, the Special Master is authorized to apply the sales procedure described above for the sale of Personal Property Assets whose value is less than USD100,000.

May 20, 2011



RONALD A. GUZMAN
UNITED STATES DISTRICT JUDGE