

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

IN RE:

Case No.: 01-30953-BKC-SHF
Chapter 7 Proceeding

ABRAHAM DAVID GOSMAN,

Debtor. _____ /

JOSEPH J. LUZINSKI, Trustee

Plaintiff,

vs.

Adv. Pro. No.: 02-3155-BKC-SHF-A

ABRAHAM D. GOSMAN and
LIN CASTRE GOSMAN, a/k/a
LINDA CASTRE GOSMAN

Defendants. _____ /

**ORDER DENYING RENEWED MOTION TO QUASH LEVIES, WRITS OF
EXECUTION AND BREAK ORDER, VACATE ORDER AUTHORIZING UNITED
STATES MARSHAL'S SERVICE TO CONDUCT EXECUTION SALE, OR IN THE
ALTERNATIVE TO STAY THE ORDER, QUASH NOTICE OF UNITED STATES
MARSHAL'S SALE, AND FOR RETURN OF PROPERTY**

THIS CAUSE came on to be heard on January 23, 2006, upon the Defendant's Renewed Motion to Quash Levies, Writs of Execution and Break Order, Vacate Order Authorizing United States Marshal's Service to Conduct Execution Sale, or in the Alternative to Stay the Order, Quash Notice of United States Marshal's Sale, and for Return of Property and Motion to Stay Sale ("Renewed Motion" - C. P. 892), filed by Defendant Lin Castre Gosman. On January 24th, 2006, having heard arguments of counsel, the Court entered an order temporarily staying the execution sale (C. P. 914). Other issues addressed in Ms. Gosman's Renewed Motion were taken under submission, and are addressed herein.

By way of the Renewed Motion, Ms. Gosman seeks alternate forms of relief. The Court is of the opinion that many of the issues raised in Ms. Gosman's Renewed Motion previously have been adjudicated, and have become final, by way of the following delineated orders:

- the January 24, 2006 Order on Defendant's Lin Gosman (sic.) Renewed Motion to Quash Levies, Writs of Execution and Break Order, Vacate Order Authorizing United States Marshal's Service to Conduct Execution Sale or in the Alternative to Stay the Order, Quash Notice of United States Marshal's Sale, and for Return of Property and Motion to Stay Sale (C.P. 914);
- the June 17, 2005 Order Granting in Part and Denying in Part Motion for In Camera Review of Seized Documents (C.P. 673); and
- the August 18, 2005 Order on Emergency Motion by Defendant Lin Castre Gosman to Retake Possession of Property Levied On, Upon the Posting of a Forthcoming Bond (C.P. 791).

The Court is not aware of any outstanding motions for reconsideration that would render the above-referenced orders non-final. Therefore, the Court will not reconsider the legality of the issuance of multiple writs, or the propriety of the execution upon the allegedly improperly-issued writ upon personal property at Trump Towers. However, there remain several matters pending before the Court to be addressed herein.

The Execution Sale May Be Rescheduled After Proper Notice of Sale

After thorough review of the record regarding the seizure of Lin Castre Gosman's property, the Court is satisfied that, after proper notice, the execution sale of the personal property of Ms. Gosman seized by the United States Marshal should be re-scheduled by Joseph J. Luzinski, chapter 7 trustee, in accordance with Rule 69 of the Federal Rules of Civil Procedure,¹¹ U.S.C § 363, Bankruptcy Rules 6004 and 2002(c), and Fla. Stat. §

56.21. Based upon the representations of counsel for both parties, Lin Castre Gosman has been afforded adequate opportunity to obtain an appraisal of the property held by the trustee, pending its execution sale. Furthermore, Lin Castre Gosman has now received additional time to evaluate the seized property, in light of this Court's January 24, 2006 Order on Defendant's Lin Gosman (sic.) Renewed Motion to Quash Levies, Writs of Execution and Break Order, Vacate Order Authorizing United States Marshal's Service to Conduct Execution Sale or in the Alternative to Stay the Order, Quash Notice of United States Marshal's Sale, and for Return of Property and Motion to Stay Sale (C.P. 914), whereby this Court granted a temporary stay of the execution sale.

The trustee also has challenged the propriety of allowing Ms. Gosman to bid on the property at the execution sale. The Court finds that Ms. Gosman may bid at the execution sale should she choose. It is not appropriate for this Court to preclude Ms. Gosman from bidding at the execution sale based upon a preconceived notion that Ms. Gosman would be purchasing the assets being sold at the execution sale with illicitly-obtained funds, as asserted by the trustee.

Counsel for Lin Castre Gosman also argues that the Court's order authorizing the execution sale does not allow for the property to be sold in one all inclusive lot, and that instead, the trustee should be required to auction each item seized by the U. S. Marshal's Service separately. However, when the trustee noticed the sale, the terms of the sale indicated that the items were to be sold in bulk. There is an absence of authority to support the position of Lin Castre Gosman that items of personal property to be sold at an execution sale must be sold separately. Furthermore, pursuant to Bankruptcy Rule 6004(f), an itemized statement of the property sold and the price received is to be filed at the

completion of the sale, whether the items are sold individually or in bulk. Therefore, the Court is satisfied that the trustee may sell the property in bulk.

In the notice of execution sale, the trustee indicates that he is authorized to credit bid in the amount of \$66,539,181.01, representing the amount of the judgment entered against Lin Castre Gosman. Counsel for Ms. Gosman argues that the Court must determine the value of properties already recovered by the trustee and recompute the remaining outstanding balance due to the trustee, for which amount the trustee then could make a credit bid. If the trustee were permitted to credit bid the entire face amount of the March 1, 2005 Order, determining the liability due by Lin Castre Gosman to the trustee to be \$66,539,181.01, the extent of Ms. Gosman's liability would be overstated in that the \$66,539,181.01 figure includes property of the estate which heretofore has been liquidated by the trustee and reduced to cash. Upon consideration of this Court's April 27, 2005 Order Granting Stay Pending Posting of Supersedeas (C.P. 565), the Court finds that the amount for which the trustee should be authorized to make a credit bid is **\$16,780,381.00**. This amount represents the value attributable to artwork and jewelry included in the March 1, 2005 Order entered by the Honorable Larry Lessen, visiting United States Bankruptcy Judge, against Lin Castre Gosman. Accordingly, it is

ORDERED that Defendant's Renewed Motion to Quash Levies, Writs of Execution, and Break Order, Vacate Order Authorizing United States Marshal's Service to Conduct Execution Sale or in the Alternative to Stay the Order, Quash Notice of United States Marshal's Sale, and for Return of Property and Motion to Stay Sale is **denied**, except to the extent that the amount for which Joseph Luzinski, chapter 7 trustee, is allowed to make a credit bid at the execution sale is limited to \$16,780,381.00.

###

Copies to:

Mr. Joseph J. Luzinski
Luis Salazar, Esq.
Harley E. Riedel, Esq.
Stephen Rakusin, Esq.
Joel L. Tabas, Esq.