

Rule 308. Court Sales of Real and Personal Property

(a) Sale of Real Property. Unless otherwise herein provided, a sale of real estate or any interest in land under an order of this court shall be governed by the provisions of Title 28, Section 2001, U.S.Code in the same manner as if such provisions were, by the terms thereof, applicable to proceedings in this court.

(b) Public Sale: Procedure. Except when the order of Court otherwise provides, the officer making a public sale shall proceed in the manner following:

(1) *Publication.* The officer shall give previous notice of the sale by publication once a week for 4 weeks in a daily newspaper of general circulation in the District of Columbia. The notice shall describe the property substantially as in the order and shall state the time, place, manner and terms of sale and the deposit required.

(2) *Terms of Sale.* The terms shall be one-third of the purchase money in cash and the balance in 2 equal installments, payable on or before one and 2 years from date of settlement of sale, represented by the promissory notes of the purchaser with interest at 6 per cent per annum, payable semi-annually, secured by deed of trust on the property, or all cash at the option of the purchaser.

(3) *Place; Presence of Officer.* The sale shall be held upon the premises, and the officer making the sale shall be present and personally receive the deposit. If there be more than one officer the presence of 1 will be sufficient.

(4) *Report; Ratification.* A verified report of the sale shall be promptly made to the Court. Thereupon on motion and notice the Court may, in its discretion, ratify the same with or without further notice. If the sale be ratified settlement shall be made and the real estate conveyed by proper deed.

(5) *Form of Order of Sale.* The order of sale shall not contain detailed directions as to the manner of proceeding, but shall do so only by reference to this rule.

(6) *Compensation of Auctioneer.* The compensation of the auctioneer shall be one and one-half percent of the 1st \$10,000 plus three-eighths of 1 per cent of any amount over \$10,000, of the value of the equity in the property being sold. In the event that the property is unencumbered by indebtedness, the auctioneer's compensation shall be computed and paid at the same rate upon the entire sales price. In no case shall the auctioneer's compensation be less than \$35 unless the property is withdrawn after being offered for sale, in which event the auctioneer's compensation shall be \$25.

(c) Private Sale: Procedure.

(1) *Order for.* A private sale may be ordered after a hearing of which notice to all interested parties is given by publication or otherwise as the Court may direct, if the Court finds the best interests of the estate will be conserved thereby.

(2) *Appraisers.* Before confirmation of a private sale the Court shall appoint 3 disinterested persons to appraise the property, or different groups of 3 appraisers each to appraise properties of different classes or situated in different locations. Such appraisers are to be appointed from the list maintained by the Register of Wills pursuant to SCR-P.D. 113.

(3) *Minimum Sale Price.* A private sale shall not be confirmed at less than two-thirds of the appraised value.

(4) *Order Nisi, Increased Offer; Confirmation.* At least 10 days before confirmation of a private sale the terms thereof shall be published in such newspaper or newspapers of general circulation in the District of Columbia as the Court may direct, and the sale shall

not then be confirmed if a bona fide offer has been made, under such conditions as the Court may prescribe, which guarantees at least a 10 per cent net increase over the price specified in such published offer.

(d) Account; Distribution of Proceeds. Promptly after the settlement of a private or public sale made under this rule a full and detailed account shall be filed and presented to the Court and the proceeds distributed as the Court may direct.

(e) Compensation to Officer Making Sale. The compensation of the trustee or officer making a sale hereunder shall be 5 per cent on the 1st \$3,000, plus two and one-half percent on the next \$10,000, plus 1 percent on any amount in excess of \$13,000 dollars of the value of the equity in the property being sold. In the event that the property is unencumbered by indebtedness, the compensation of the trustee or officer making the sale shall be computed and paid at the same rate upon the entire sales price. The compensation may be increased or reduced by the Court for special cause shown in writing.

(f) Sale of Personal Property. Unless otherwise herein provided, a sale of personal property under an order of this Court shall be governed by Title 28, Section 2004, U.S. Code, in the same manner as if such provisions were, by the terms thereof, applicable to proceedings in this Court. The officer making sale shall account and distribute as provided by paragraph (d) hereof. The officer shall be allowed such compensation and expenses as the court may fix.

COMMENT

Identical to USDCDC [District Court] Rule 28, except for changes in (a) and (f) caused by analogical application of U.S. Code provisions.