

ORIGINAL

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number WEILAND, GOLDEN, SMILEY, WANG EKVALL & STROK, LLP Jeffrey I. Golden, State Bar No. 133040 Lei Lei Wang Ekvall, State Bar No. 163047 Autumn D. Spaeth, State Bar No. 208707 650 Town Center Drive, Suite 950 Costa Mesa, CA 92626 Telephone: (714) 966-1000 Facsimile: (714) 966-1002	FOR COURT USE ONLY <div style="border: 1px solid black; padding: 5px; text-align: center;"> FILED FEB 27 2006 <small>CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY Deputy Clerk</small> </div>
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: LUZ H. MONTANIEL, <div style="text-align: right;">Debtor(s).</div>	CASE NO. LA 05-20232 VZ Chapter 7

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: March 21, 2006	Time: 1:30 p.m.
Location: Courtroom 1368, Roybal Federal Building, 255 E. Temple Street, Los Angeles, California	

Type of Sale: Public Private Last date to file objections: March 7, 2006

Description of Property to be Sold: 3646 Mimosa Drive, Los Angeles, California

Terms and Conditions of Sale: See attached Notice of Hearing on Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. §§ 363(b) and (f);

(2) Approving Overbid Procedures; (3) Approving Trustee's Agreement with Ocwen Federal Bank;

(4) Approving Buyer, Successful Bidder and Back-Up Bidder as Good Faith Purchaser Pursuant to

11 U.S.C. § 363(m); and (5) Authorizing Payment of Undisputed Liens, Real Estate Broker's Commission and Other Ordinary Costs of Sale (the "Notice")

Proposed Sale Price: See attached Notice

Overbid Procedure (If Any): See attached Notice

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing: See attached Notice

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

Lei Lei Wang Ekvall, Esq.

Weiland, Golden, Smiley, Wang Ekvall & Strok, LLP

650 Town Center Drive, Suite 950

Costa Mesa, CA 92626

(714) 966-1000 (tel); (714) 966-1002 (fax)

Date: February 24, 2006

1 **PLEASE TAKE NOTICE** that David L. Hahn, the chapter 7 trustee (the "Trustee")
2 of the estate (the "Estate") of Luz H. Montaniel (the "Debtor") has filed a motion for an
3 order (the "Motion"):

- 4 (1) approving the sale of the real property located at 3646 Mimosa Drive, Los
5 Angeles, California (the "Property"), as-is, where-is, with no representations
6 or warranties, free and clear of liens pursuant to 11 U.S.C. §§ 363(b) and
7 (f);
- 8 (1) to John Michael Pascual (the "Buyer") for \$491,000¹ pursuant to the
9 terms of the Residential Purchase Agreement and Joint Escrow
10 Instructions (collectively, the "Agreement") attached as Exhibit 2 to
11 the Motion; or
- 12 (2) to the successful bidder whose purchase offer for the Property
13 exceeds the offer tendered by the Buyer by not less than \$5,000 and
14 is accepted by the Trustee at the hearing on the Motion;
- 15 (b) approving the Buyer, the successful bidder, and the back-up bidder as a
16 "good faith" purchaser under § 363(m) of the Bankruptcy Code;
- 17 (c) approving the overbid procedures set forth in the Motion as summarized
18 below;
- 19 (d) approving the terms of the Agreement;
- 20 (e) approving the agreement with Ocwen Federal Bank ("Ocwen") and
21 authorizing the Trustee to execute the letter from Ocwen regarding the
22 reduced payoff attached as Exhibit 8 to the Motion;
- 23 (f) authorizing the Trustee to pay (1) the lien of People's Choice Home Loan,
24 Inc. (the "People's Choice Lien"), (2) the lien of Ocwen (the "Ocwen Lien")
25 in the agreed upon reduced amount of \$40,500.00, (3) ordinary and
26 reasonable costs of sale, (4) broker's commission, and (5) the Estate's pro
27 rata share of real property taxes, in full from the proceeds of the sale;
- 28 (g) authorizing the sale free and clear of the People's Choice Lien, the Ocwen
Lien, the lien of Ophelia Gerolaga, and the judgment lien, with such liens, if
not fully satisfied from the sale proceeds, to attach to the proceeds in the
same order of priority as they currently exist against the Property; and
- (h) authorizing the Trustee to take any and all necessary action to
consummate the sale of the Property.

23 **PLEASE TAKE FURTHER NOTICE** that the Motion is scheduled for hearing in
24 Courtroom 1368 of the above-entitled court located at the Roybal Federal Building, 255
25 East Temple Street, Los Angeles, California 90012.

27 The Buyer has made a deposit in the amount of Four Thousand Dollars
28 (\$4,000.00). The Agreement provides for a \$12,000.00 credit in favor of the Buyer and
against the total consideration. Therefore, the total realizable cash consideration for the
Property is \$479,000.00 (the "Purchase Price").

1 **PLEASE TAKE FURTHER NOTICE that all overbids must be in writing and**
2 **must be submitted to counsel for the Trustee whose address is listed in the top**
3 **left hand corner of the first page of the instant Notice. Overbids are due by**
4 **10:00 a.m. on Friday, March 17, 2006.**

5 **PLEASE TAKE FURTHER NOTICE that the overbid procedures sought be**
6 **approved by the Court are as follows:**

- 7 1. Any qualifying bidder ("Qualifying Bidder") shall:
 - 8 a. bid at least \$484,000, in cash, for the Property;
 - 9 b. set forth in writing the terms and conditions of the offer that are at
10 least as favorable to the Trustee as those set forth in the Agreement
11 attached as Exhibit 2 to the Motion;
 - 12 c. be a party financially qualified, in the Trustee's exercise of his sound
13 business judgment, to close the sale by no later than March 24,
14 2006;
 - 15 d. submit an offer that does not contain any contingencies to closing
16 the sale, including, but not limited to, financing, inspection, or repair
17 contingencies;
 - 18 e. submit a cash deposit in the amount of Fourteen Thousand Five
19 Hundred Twenty Dollars (\$14,520) payable to the Trustee in the
20 form of a cashier's check, which deposit shall be non-refundable if
21 the bid is deemed to be the Successful Bid, as defined in ¶4 below
22 (the "Deposit"). The Deposit and written offer must be delivered to
23 counsel for the Trustee, Lei Lei Wang Ekvall, Esq., Weiland, Golden,
24 Smiley, Wang Ekvall & Strok, LLP, 650 Town Center Drive, Suite
25 950, Costa Mesa, California 92626, no later than Friday, March 17,
26 2006 at 10:00 a.m.
- 27 2. At the hearing on the Motion, only the Buyer and any party who is deemed
28 a Qualifying Bidder shall be entitled to bid.
3. Any incremental bid in the bidding process shall be at least One
 Thousand Dollars (\$1,000) higher than the prior bid.
4. At the hearing on the Motion, and upon conclusion of the bidding process,
 the Trustee shall decide which of the bids is the best bid, and such bid shall
 be deemed to be the "Successful Bid." The bidder who is accepted by the
 Trustee as the successful bidder (the "Successful Bidder") must pay all
 amounts reflected in the Successful Bid in cash at the closing of the sale.
 At the hearing on the Motion, and upon conclusion of the bidding process,
 the Trustee may also acknowledge a back-up bidder ("Back-Up Bidder")
 which shall be the bidder with the next best bid. Should the Successful
 Bidder fail to close escrow on the sale of the Property, the Trustee may sell
 the Property to the Back-Up Bidder without further Court order.
5. Overbids shall be all cash and no credit shall be given to the purchaser or
 overbidder(s) in the context of overbids.

1 The Motion is based upon the Memorandum of Points and Authorities, the
2 Declarations of David L. Hahn, Lei Lei Wang Ekvall, and William Friedman attached to
3 the Motion, all pleadings, papers and records on file with this Court, and on such other
evidence, oral or documentary, as may be presented to this Court at the time of the
hearing on the Motion.

4 **PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule
9013-1(a)(7) provides:

5 Unless otherwise ordered by the Court, each interested party opposing,
6 joining, or responding to the motion shall file and serve not later than fourteen
(14) days before the date designated for hearing either:

7 (i) A brief but complete written statement of all reasons in
8 opposition thereto or in support or joinder thereof, and
9 answering memorandum of points and authorities, declarations
and copies of all photographs and documentary evidence on
10 which the responding party intends to rely. The opposing
papers shall advise the adverse party that any reply to the
11 opposition shall be filed with the Court and served on the
opposing party not later than seven (7) calendar days (not
12 excluding Saturdays, Sundays, and legal holidays) prior to the
hearing on the motion; or

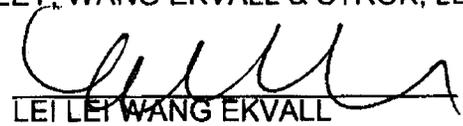
13 (ii) A written statement that the motion will not be opposed.

14 **PLEASE TAKE FURTHER NOTICE** that papers not timely filed and served may
15 be deemed by the Court to be consent to the granting or denial of the motion, as the
case may be. See Local Bankruptcy Rule 9013-1(a)(11).

16 DATED: February 24, 2006

WEILAND, GOLDEN,
SMILEY, WANG EKVALL & STROK, LLP

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By:


LEI LEI WANG EKVALL
Attorneys for David L. Hahn,
Chapter 7 Trustee

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA,

3 COUNTY OF ORANGE

4 I am employed in the County of Orange, State of California. I am over the age of
5 18 and not a party to the within action; my business address is 650 Town Center Drive,
Suite 950, Costa Mesa, California 92626.

6 On February 24, 2006, I served the foregoing document described as **NOTICE OF**
7 **HEARING ON MOTION FOR ORDER:(1)AUTHORIZING SALE OF REAL PROPERTY FREE**
8 **AND CLEAR OF LIENS, CLAIMS, AND INTERESTS PURSUANT TO 11 U.S.C. §§ 363(b) AND**
9 **(f);(2)APPROVING OVERBID PROCEDURES; (3)APPROVING BUYER, SUCCESSFUL**
10 **BIDDER AND BACK-UP BIDDER AS GOOD FAITH PURCHASER PURSUANT TO 11 U.S.C. §**
11 **363(m); AND(4)AUTHORIZING PAYMENT OF UNDISPUTED LIENS, REAL ESTATE**
12 **BROKER'S COMMISSIONS AND OTHER ORDINARY COSTS OF SALE** on the interested
13 parties in this action by placing true copies thereof enclosed in sealed envelopes
14 addressed as stated on the attached mailing list.

11 BY MAIL

12 I deposited such envelope in the mail at Costa Mesa, California. The
13 envelope was mailed with postage thereon fully prepaid.

14 I deposited such envelope with the firm for collection and processing. I am
15 "readily familiar" with the firm's practice of collection and processing
16 correspondence for mailing. It is deposited with U.S. postal service on that
17 same day with postage thereon fully prepaid at Costa Mesa, California in
the ordinary course of business. I am aware that on motion of the party
served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in
affidavit.

18 Executed on February 24, 2006, at Costa Mesa, California.

19 (State) I declare under penalty of perjury under the laws of the State of California
20 that the above is true and correct.

21 (Federal) I declare that I am employed in the office of a member of the bar of this
22 court at whose direction the service was made. I declare under the penalty of
perjury under the laws of the United States of America that the above is true and
23 correct.

24 Kelly M. Rivera
Type or print name

25 
Signature

OFFICE OF THE U.S. TRUSTEE
ERNST & YOUNG PLAZA
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